

CORRESPONDENCE AND TREATIES

WITH

FOREIGN POWERS.

Session

24 *November* - - - 22 *July*,

1812 — 1813.

VOL. XIV.

THIS BOOK
IS TO BE PRESERVED IN
THE OFFICE OF
HIS MAJESTY'S
PRINCIPAL SECRETARY OF STATE;
HOME DEPARTMENT.

1812 — 1813.

C O N T E N T S

OF VOL. XIV. — 1812 - 13.

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1.
AMERICA.

CORRESPONDENCE

RELATIVE TO THE

FRENCH DECREES,

AND THE

ORDERS IN COUNCIL.

SUBSEQUENT TO 20th MAY 1812.

PRESENTED TO PARLIAMENT, BY COMMAND OF HIS ROYAL HIGHNESS THE
PRINCE REGENT, FEBRUARY 1813.

9

P A P E R S
RELATING TO
A M E R I C A.

No. 1.

Mr. Russell to Viscount Castlereagh.

18, Bentinck Street, May 20th, 1812.

THE undersigned Chargé des Affaires of the United States of America, has the honour to transmit to Lord Castlereagh, authentic copies of a Decree purporting to be passed by the Emperor of the French, on the 28th day of April 1811; of a letter addressed by the French Minister of Finances to the Director General of the Customs, on the 25th day of December 1810; and of another letter of the same date, from the French Minister of Justice, to the President of the Council of Prizes.

As these acts explicitly recognise the revocation of the Berlin and Milan Decrees, in relation to the United States, and distinctly make this revocation to take effect from the first of November 1810, the undersigned cannot but persuade himself that they will, in the official and authentic form in which they are now presented to His Britannic Majesty's Government, remove all doubt with respect to the revocation in question; and, joined with all the powerful considerations of justice and expediency so often suggested, lead to a like repeal of the British Orders in Council, and thereby to a renewal of that perfect amity, and unrestricted intercourse between this country and the United States, which the obvious interests of both nations require.

The undersigned avails himself, &c.

(Signed)

JONA. RUSSELL.

*Viscount Castlereagh,
&c. &c. &c.*

(First Inclosure, referred to in No. 1.)

Au Palais de St. Cloud, le 28 Avril 1811.

NAPOLÉON Empereur des Français, Roi d'Italie, Protecteur de la Confédération du Rhin, Mediateur de la Confédération Suisse.

Sur le rapport de notre Ministre des Relations extérieures.

Vu la loi du 2 Mars, 1811, par laquelle le Congrès des Etats-Unis, a ordonné l'exécution des dispositions de l'acte de Non-Intercourse, qui interdisent l'entrée dans les ports Americains, aux navires, et aux marchandises de la Grande Bretagne, ses colonies et dépendances:

B

Considérant que la dite loi est un acte de résistance, aux prétensions arbitraires, consacrées par les arrêts du Conseil Britannique, et un refus formel d'adhérer à un système attentatoire à l'indépendance des puissances neutres, et de leur pavillon :

Nous avons décrété et décrétons ce qui suit :

Les Décrets de Berlin et de Milan, sont, définitivement, et à dater du 1er. Novembre dernier, considérés, comme non venus, à l'égard des Batimens Américains.

(Signé) NAPOLEON.

Par l'Empereur. Le Ministre et Secrétaire d'Etat.

(Signé) LE COMTE DARU.

(Pour copie conforme.)

Le Ministre des Relations Extérieures.

(Signé) *Le Duc de Bassano.*

(A true copy.)

(Signed) JOEL BARLOW.

(Translation of First Inclosure, referred to in No. 1.)

At the Palace of St. Cloud, April 28, 1811.

NAPOLEON, Emperor of the French, King of Italy, Protector of the Confederation of the Rhine, Mediator of the Swiss Confederacy.

ON the report of our Minister for Foreign Affairs: considering the Law of the 2d March 1811, by which the Congress of the United States have decreed the exemption of the provisions of the Act of Non-Intercourse, which interdicts the entry into American ports of the ships and merchandise of Great Britain, her colonies, and dependencies :

Considering that the said law is an act of resistance to the arbitrary pretensions advanced by the British Orders in Council, and a formal refusal to sanction a system hostile to the independence of neutral powers, and their flags.

We have decreed and do decree as follows :

The Decrees of Berlin and Milan are definitively (from the first of November last), considered as no longer in force, as far as regards American vessels.

(Signed) NAPOLEON.

By the Emperor. The Minister, and Secretary of State

(Signed) COUNT DARU.

(A true copy.)

The Minister for Foreign Affairs.

(Signed) *The Duke of Bassano.*

(A true copy.)

(Signed) *Joel Barlow.*

(Second Inclosure, referred to in No. 1.)

Paris, Decembre 25, 1810.

Le Ministre des Finances, à Monsieur le Comte de Sassy, Conseiller d'Etat, Directeur Général des Douânes.

Monsieur le Comte.

LE 5 Août dernier, le Ministre des Relations Extérieures, a écrit à M. Armstrong, Ministre Plenipotentiaire d'Amérique, que les Décrets de Berlin et Milan, étoient revoués, et qu'à dater du 1er. Novembre, ils cesseraient d'avoir leur effet, bien entendu qu'en conséquence de cette déclaration, les Anglois revoueroient leurs Ordres du Conseil, et renonceroient aux nouveaux Principes

de Blocus, qu'ils ont voulu établir, ou bien que les Etats-Unis, conformément à l'acte communiqué, feroient respecter leurs droits par les Anglois.

Sur la communication de cette note le President des Etats-Unis a rendu, le 2d Novembre, une Proclamation qui annonce la revocation, à compter du 1er. Novembre, des décrets de Berlin et de Milan, et qui declare qu'en conséquence toutes les restrictions imposées par l'acte du 1er. Mai, doivent cesser à l'égard de la France, et de ses dépendances.

Le même jour le Departement du Trésor a adressé aux Agens de la Douâne une circulaire qui leur prescrit d'admettre dans les ports, et dans les eaux des Etats-Unis, les Batimens François armés, et leur enjoint d'appliquer, à compter du 2d. Fevrier prochain, la loi du 1er. Mai 1809, prohibitive de toute relation commerciale aux Batimens Anglois de toute genre, ainsi qu'aux marchandises du sol, ou du commerce ou de l'industrie de l'Angleterre, et de ses dépendances.

S. M. Monsicur, ayant vû dans ces deux actes l'annonce des mesures que les Americains comptent prendre au 2d Fevrier prochain, pour faire respecter leur droits m'a ordonné de vous faire connaître, que les Décrets de Berlin et de Milan, ne doivent être appliqués à aucun Batiment Americain entré dans nos ports, depuis le 1er. Novembre, ou qui y entreroit à l'avenir, et que ceux qui ont été sequestrés comme étant en contravention avec les Decrêts, doivent être l'objet d'un rapport spécial.

Au 2d. Fevrier, je vous ferai connaître les intentions de l'Empereur sur le parti definitif à prendre pour distinguer et favoriser la navigation Americaine.

J'ai l'honneur, &c.

(Signé)

LE DUC DE GAETE.

(Pour copie conforme.)

Par authorization du Ministre absent,

Le Chef de la Division des Consulats.

(Signé)

D. Hermand.

(Translation of Second Inclosure in No. 1.)

Paris, December 25, 1810.

*The Minister of Finance to the Count of Sassy, Counsellor of State,
Director-General of the Customs.*

SIR,

ON the 5th of August last, the Minister of Foreign Relations wrote to Mr. Armstrong, Minister Plenipotentiary of the United States of America, that the Berlin and Milan Decrees were revoked, and that after the 1st of November they would cease to have effect; it being well understood, that in consequence of this declaration, the English would revoke their Orders in Council, and renounce the new principles of blockade which they wished to establish; or that the United States, in conformity to the act communicated, should cause their rights to be respected by the English.

On the communication of this note, the President of the United States issued, on the 2d of November, a proclamation, which announces the revocation of the Berlin and Milan Decrees, after the 1st of November; and which declares, that in consequence thereof, all the restrictions imposed by the act of the 1st of May 1809, should cease with respect to France and her dependencies.

The same day, the Treasury Department addressed to the Collectors of the Customs a Circular, which directs them to admit into the ports and waters of the United States, French armed vessels, and enjoins them to apply, after the 2d of February next, the Law of the 1st of May 1809, prohibiting all commercial relations to English vessels of every description, as well as to productions of the soil, industry or commerce of England, and her dependencies.

His Majesty having seen, in these two papers, the enunciation of the measures which the Americans propose taking on the 2d of February next, to cause their rights to be respected, has ordered me to inform you, that the Berlin and Milan Decrees must not be applied to any American vessels that have entered our ports since the 1st of November, or may enter in future; and that those which have been sequestered, as being in contravention of these Decrees, must be the object of a special report.

On the 2d of February, I shall acquaint you with the intentions of the Emperor with regard to the definitive measures to be taken for distinguishing and favouring the American navigation.

I have the honour, &c.

(Signed)

THE DUKE OF GAETE.

(A true copy.)

By order of the Minister in his absence.

The Chief of the Consulate Division.

(Signed)

D'Hermand.

(Third Inclosure, referred to in No. 1.)

Paris, 25 Decembre 1810.

Le Grand Juge, Ministre de la Justice, à M. le
Conseiller d'Etat, President du Conseil des Prises.

Monsieur le Président,

Le Ministre des Relations Extérieures, d'après les ordres de S. M. l'Empereur et Roi, a adressé, le 5 Août dernier, au Plenipotentiaire des Etats-Unis d'Amerique, une note portant ces mots :

“ Je suis autorisé à vous déclarer, que les Décrets de Berlin et Milan sont révoqués, et qu'à dater du 1er. Novembre, ils cesseront d'avoir leur effet, bien entendu qu'en conséquence de cette déclaration les Anglois révoqueront leurs Ordres du Conseil, et renonceront aux nouveaux Principes de Blocus qu'ils ont voulu établir, ou bien que les Etats-Unis, conformément à l'acte que vous venez communiquer, feront respecter leurs droits par les Anglois.”

D'après la communication de cette note le President des Etats-Unis a publié, le 2d. Novembre, une Proclamation pour annoncer la révocation des Décrets de Berlin et Milan, et declare, qu'en conséquence toutes les restrictions imposées par l'acte du 1er. Mai, devraient cesser à l'égard de la France et de ses dépendances. Le Departement du Trésor a adressé le même Jour à tous les Agens des Douânes d'Amerique, une circulaire, qui leur enjoint d'admettre dans les ports, et dans les eaux des Etats Unis, les Batimens François armés, et leur prescrit d'appliquer, à compter du 2d. Fevrier prochain, aux Batimens Anglois de tout genre, et aux marchandises provenant du Sol et de l'industrie et du commerce de l'Angleterre, et de ses dépendances, la loi qui prohibe toute relation commerciale, si à cette époque la révocation des Ordres du Conseil d'Angleterre, et de tous les actes attentatoires à la neutralité des Etats Unis, n'avoient pas été annoncée par le Departement du Trésor.

En conséquence de cet engagement pris par le Gouvernement des Etats Unis de faire respecter ses droits, S. M. ordonne que toutes les causes pendantes au Conseil des Prises, pour des Prises de Batimens Americains faites à dater du 1er Novembre, et celles qui y seront portées à l'avenir ne soient pas jugées d'après les principes des Décrets de Berlin et de Milan, mais qu'elles restent en suspens, les Batimens pris ou saisis devant être seulement sous le sequestre, et les droits des propriétaires leur étant réservés jusqu' au 2d Fevrier prochain, époque ou les Etats Unis ayant rempli l'engagement de faire respecter leurs droits, les dites prises devront être déclarées nulles par le Conseil, et les Batimens Americains remis avec leurs Cargaisons à leurs propriétaires.

Agrééz, &c.

(Signé)

LE DUC DE MASSA.

(Pour copie conforme.)

Le Ministre des Relations Extérieures.

(Signé)

Le Duc de Bassano.

(Translation of Third Inclosure in No. 1.)

Paris, December 26, 1810.

The Grand Judge, Minister of Justice, to the Counsellor of State, President of the Council of Prizes.

MR. PRESIDENT,

THE Minister for Foreign Affairs, by order of His Majesty the Emperor and King, addressed on the 5th of August last, to the Plenipotentiary of the United States of America, a note containing the following words:

"I am authorized to declare to you, that the Decrees of Berlin and Milan are revoked, and that after the 1st of November they will cease to have effect; it being well understood, that in consequence of this declaration, the English will revoke their Orders in Council, and renounce the new principles of blockade which they wished to establish, or that the United States, in conformity to the act you have just communicated, will cause their rights to be respected by the English."

In consequence of the communication of this note, the President of the United States issued, on the 2d of November, a proclamation to announce the revocation of the Decrees of Berlin and Milan, and declared, that in consequence thereof, all the restrictions imposed by the Act of the 1st of May must cease with respect to France and her dependencies: on the same day, the Treasury Department, addressed a circular to the Collectors of the Customs of the United States, which enjoins them to admit into the ports and waters of the United States French armed vessels; prescribes to them to apply, after the 2d of February next, to English vessels of every description, and to productions arising from the soil and industry, or the commerce of England and her dependencies, the law which prohibits all commercial relations; if at that period the revocation of the English Orders in Council, and of all the acts violating the neutrality of the United States, should not be announced by the Treasury Department.

In consequence of this engagement, entered into by the Government of the United States, to cause their rights to be respected, His Majesty orders, that all the causes that may be pending in the council of prizes of captures of American vessels, made after the 1st of November, and those that may in future be brought before it, shall not be judged according to the principles of the Decrees of Berlin and Milan, but that they shall remain suspended; the vessels captured or seized to remain only in a state of sequestration, and the rights of the proprietors being reserved for them until the 2d of February next, the period at which the United States having fulfilled the engagement to cause their rights to be respected, the said captures shall be declared null by the Council, and the American vessels restored, together with their cargoes, to their proprietors.

Receive, &c.

(Signed)

THE DUKE OF MASSA.

(A true copy.)

The Minister of Foreign Affairs.

(Signed) *The Duke of Bassano.*

No. 2.

*Viscount Castlereagh to Mr. Russell.**Foreign Office, May 23d, 1812.*

LORD CASTLEREAGH presents his compliments to Mr. Russell, and has the honour to acknowledge the receipt of his official note of the 20th instant, transmitting copies of two official letters of the French Ministers, dated December the 25th, 1810—and of a Decree of the French Government, bearing date the 28th of April 1811.

Lord Castlereagh will immediately lay these documents before His Royal Highness the Prince Regent, and avails himself of this opportunity, to renew to Mr. Russell the assurances of his high consideration.

Jonathan Russell, Esq.

No. 3.

Viscount Castlereagh to Mr. Russell.

SIR,

Foreign Office, June 23d, 1812.

IN communicating to your Government, the Order in Council of this date, revoking (under certain conditions therein specified) those of January the 7th 1807, and of April the 26th 1809; I am to request that you will, at the same time, acquaint them, that the Prince Regent's Ministers have taken the earliest opportunity, after their resumption of the Government, to recommend to His Royal Highness the adoption of a measure, grounded upon the document communicated by you to this office, on the 20th ultimo; and His Royal Highness hopes, that this proceeding on the part of the British Government, may accelerate a good understanding on all points of difference between the two states.

I shall be happy to have the honour of seeing you at the Foreign Office, at two o'clock to-morrow, and beg to apprise you, that one of His Majesty's vessels will sail for America, with the dispatches of this Government, in the course of the present week.

I have the honour to be, &c.

(Signed)

CASTLEREAGH.

Jonathan Russell, Esq.

(Inclosure referred to in No. 3.)

At the Court at Carlton-House, the 23d of June 1812, present, His Royal Highness the Prince Regent in Council.

Whereas His Royal Highness the Prince Regent was pleased to declare, in the name and on the behalf of His Majesty, on the 21st day of April 1812, "That if at any time hereafter the Berlin and Milan Decrees shall, by some authentic act of the French Government, publicly promulgated, be absolutely and unconditionally repealed, then and from thenceforth the Order in Council of the 7th of January 1807, and the Order in Council of the 26th of April 1809, shall, without any further Order, be, and the same are hereby declared from thenceforth to be, wholly and absolutely revoked."

And whereas the Chargé des Affaires of the United States of America, resident at this Court, did, on the 20th day of May last, transmit to Lord Viscount Castlereagh, one of His Majesty's principal Secretaries of State, a copy of a certain instrument, then for the first time communicated to this Court, pur-

porting to be a Decree passed by the Government of France, on the 28th day of April 1811, by which the Decrees of Berlin and Milan are declared to be definitively no longer in force, in regard to American vessels.

And whereas His Royal Highness the Prince Regent, although He cannot consider the tenor of the said instrument as satisfying the conditions set forth in the said Order of the 21st of April last, upon which the said Orders were to cease and determine; is nevertheless disposed on His part to take such measures as may tend to re-establish the intercourse between neutral and belligerent nations, upon its accustomed principles—His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, is therefore pleased, by and with the advice of His Majesty's Privy Council, to order and declare, and it is hereby ordered and declared, that the Order in Council bearing date the 7th day of January 1807, and the Order in Council bearing date the 26th day of April 1809, be revoked, so far as may regard American vessels and their cargoes, being American property, from the 1st day of August next.

But whereas by certain Acts of the Government of the United States of America, all British armed vessels are excluded from the harbours and waters of the said United States, the armed vessels of France being permitted to enter therein; and the commercial intercourse between Great Britain and the said United States is interdicted, the commercial intercourse between France and the said United States having been restored; His Royal Highness the Prince Regent is pleased hereby farther to declare, in the name and on the behalf of His Majesty, that if the Government of the said United States shall not, as soon as may be, after this Order shall have been duly notified by His Majesty's Minister in America to the said Government, revoke, or cause to be revoked, the said Acts, this present Order shall in that case, after due notice signified by His Majesty's Minister in America to the said Government, be thenceforth null and of no effect.

It is further ordered and declared, that all American vessels and their cargoes, being American property, that shall have been captured subsequently to the 20th day of May last, for a breach of the aforesaid Orders in Council alone, and which shall not have been actually condemned before the date of this Order; and that all ships and cargoes as aforesaid, that shall henceforth be captured under the said Orders, prior to the 1st day of August next, shall not be proceeded against to condemnation till further orders, but shall, in the event of this Order not becoming null and of no effect, in the case aforesaid, be forthwith liberated and restored, subject to such reasonable expences on the part of the captors as shall have been justly incurred.

Provided that nothing in this Order contained, respecting the revocation of the Orders herein-mentioned, shall be taken to revive wholly or in part the Orders in Council of the 11th of November 1807, or any other Order not herein-mentioned, or to deprive parties of any legal remedy to which they may be entitled under the Order in Council of the 21st of April 1812.

His Royal Highness the Prince Regent is hereby pleased further to declare, in the name and on the behalf of His Majesty, that nothing in this present Order contained, shall be understood to preclude His Royal Highness the Prince Regent, if circumstances shall so require, from restoring, after reasonable notice, the Orders of the 7th of January 1807, and 26th of April 1809, or any part thereof, to their full effect, or from taking such other measures of retaliation against the enemy, as may appear to His Royal Highness to be just and necessary.

And the Right Honourable the Lords Commissioners of His Majesty's Treasury, His Majesty's Principal Secretaries of State, the Lords Commissioners of the Admiralty, and the Judge of the High Court of Admiralty, and the Judges of the Courts of Vice-Admiralty, are to take the necessary measures herein as to them may respectively appertain.

(Signed)

JAMES BULLER.

No. 4.

Mr. Russell to Viscount Castlereagh.

MY LORD,

18, Bentinck-Street, June 26th, 1812.

I HAVE the honour to acknowledge the receipt of the note addressed to me, by your Lordship, on the 23d of this month, inclosing an Order in Council, issued that day, by His Royal Highness the Prince Regent, acting in the name and on the behalf of His Britannic Majesty, for the revocation (on the conditions therein specified) of the Orders in Council of the 7th of January 1807, and of the 26th of April 1809, so far as may regard American vessels and their cargoes, being American property, from the 1st of August next.

In communicating this document to my Government, I shall with much satisfaction accompany it with the hopes, which you state to be entertained by His Royal Highness the Prince Regent, that it may accelerate a good understanding on all points of difference between the two States. I am the more encouraged to believe, that these hopes will not be disappointed from the assurance which your Lordship was pleased to give me, in the conversation of this morning, that in the opinion of your Lordship, the blockade of the 16th of May 1806, had been merged in the Orders in Council, now revoked, and extinguished with them; and that no condition contained in the Order of the 23d instant, is to be interpreted to restrain the Government of the United States, from the exercise of its right to exclude British armed vessels from the harbours and waters of the United States, whenever there shall be special and sufficient cause for so doing; or whenever such exclusion, shall from a general policy, be extended to the armed vessels of the enemies of Great Britain. This assurance I am happy to consider as evidence of a conciliatory spirit, which will afford on every other point of difference, an explanation equally frank and satisfactory.

I am, &c.

(Signed)

JONA. RUSSELL.

*Viscount Castlereagh,**&c. &c. &c.*

No. 5.

*Viscount Castlereagh to Mr. Russell.**Foreign Office, June 29th, 1812.*

LORD CASTLEREAGH has the honour to acknowledge the receipt of Mr. Russell's communication of the 26th instant.

That no mistake may prevail upon the explanation given in conversation by Lord Castlereagh to Mr. Russell, on the two points referred to in Mr. Russell's letter, Lord Castlereagh begs leave to restate to Mr. Russell, with respect to the blockade of May 1806, that in point of fact, this particular blockade has been discontinued for a length of time, the general retaliatory blockade of the enemy's ports, established under the Orders in Council of November 1807, having rendered the enforcement of it by His Majesty's ships of war no longer necessary; and, that His Majesty's Government has no intention of recurring to this, or to any other of the blockades of the enemy's ports, founded upon the ordinary and accustomed principles of maritime law, which were in force previous to the Orders in Council, without a new notice to neutral powers in the usual form.

With respect to the provision of the Order of the 23d instant, which refers to the admission of British ships of war into the harbours and waters of the United States, Lord Castlereagh informs Mr. Russell, that this claim is

made in consequence of His Majesty's ships being now excluded, whilst those of the enemy are admitted.

It is the partial admission of the ships of one of the belligerents, of which Great Britain feels herself entitled to complain, as a preference in favour of the enemy, incompatible with the obligations of strict neutrality. Were the exclusion general, the British Government would consider such a measure on the part of America, as matter of discussion between the two states, but not as an act of partiality, of which they had in the first instance a right to complain.

Jonathan Russell, Esq.

No. 6.

Mr. Russell to Viscount Castlereagh.

MY LORD,

London, August 24, 1812.

It is only necessary, I trust, to call the attention of your Lordship to a review of the conduct of the Government of the United States, to prove incontrovertibly its unceasing anxiety to maintain the relations of peace and friendship with Great Britain. Its patience in suffering the many wrongs which it has received, and its perseverance in endeavouring, by amicable means, to obtain redress, are known to the world. Despairing at length of receiving this redress from the justice of the British Government, to which it had so often applied in vain, and feeling that a further forbearance would be a virtual surrender of interests and rights essential to the prosperity and independence of the nation confided to its protection, it has been compelled to discharge its high duty by an appeal to arms. While, however, it regards this course as the only one which remained for it to pursue with a hope of preserving any portion of that kind of character, which constitutes the vital strength of every nation, yet it is still willing to give another proof of the spirit which has uniformly distinguished its proceedings, by seeking to arrest, on terms consistent with justice and honour, the calamities of war. It has therefore authorised me to stipulate with His Britannic Majesty's Government, an armistice, to commence at or before the expiration of sixty days after the signature of the instrument providing for it, on condition that the Orders in Council be repealed, and no illegal blockades be substituted for them, and that orders be immediately given to discontinue the impressment of persons from American vessels, and to restore the citizens of the United States already impressed; it being moreover well understood that the British Government will assent to enter into definitive arrangements as soon as may be, on these and every other difference, by a treaty to be concluded either at London or Washington, as on an impartial consideration of existing circumstances shall be deemed most expedient.

As an inducement to Great Britain to discontinue the practice of impressment from American vessels, I am authorised to give assurance that a law shall be passed (to be reciprocal) to prohibit the employment of British seamen in the public or commercial service of the United States.

It is sincerely believed that such an arrangement would prove more efficacious in securing to Great Britain her seamen than the practice of impressment, so derogatory to the sovereign attributes of the United States, and so incompatible with the personal rights of their citizens.

Your Lordship will not be surprised that I have presented the revocation of the Orders in Council as a preliminary to the suspension of hostilities, when it is considered that the act of the British Government, of the 23d of June last, ordaining that revocation, is predicated on conditions, the performance of which is rendered impracticable by the change which is since known to have occurred in the relations between the two countries. It cannot now be

expected that the Government of the United States will immediately, on due notice of that act, revoke or cause to be revoked its acts, excluding from the harbours and waters of the United States all British armed vessels, and interdicting commercial intercourse with Great Britain. Such a procedure would necessarily involve consequences too unreasonable and extravagant to be for a moment presumed. The Order in Council of the 23d June last will therefore, according to its own terms, be null and void, and a new act of the British Government, adapted to existing circumstances, is obviously required for the effectual repeal of the Orders in Council of which the United States complain.

The Government of the United States considers indemnity for injuries received under the Orders in Council and other edicts, violating the rights of the American nation, to be incident to their repeal, and it believes that satisfactory provision will be made in the definitive treaty to be hereafter negotiated for this purpose.

The conditions now offered to the British Government for the termination of the war, by an armistice as above stated, are so moderate and just in themselves, and so entirely consistent with its interest and honour, that a confident hope is indulged that it will not hesitate to accept them. In so doing, it will abandon no right; it will sacrifice no interests; it will abstain only from violating the rights of the United States, and in return, it will restore peace with the power, from whom, in a friendly commercial intercourse, so many advantages are to be derived.

Your Lordship is undoubtedly aware of the serious difficulties with which a prosecution of the war, even for a short period, must necessarily embarrass all future attempts at accommodation. Passions exasperated by injuries—alliances or conquests on terms which forbid their abandonment—will inevitably hereafter embitter and protract a contest, which might now be so easily and happily terminated.

Deeply impressed with these truths, I cannot but persuade myself that His Royal Highness the Prince Regent will take into His early consideration the propositions herein made, and decide on them in a spirit of conciliation and justice.

I have the honour to be, &c.

(Signed)

JONA. RUSSELL.

Viscount Castlereagh,
 &c. &c. &c.

No. 7.

Viscount Castlereagh to Mr. Russell.

SIR,

Foreign Office, August 29, 1812.

ALTHOUGH the diplomatic relations between the two Governments have been terminated, by a declaration of war on the part of the United States, I have not hesitated, under the peculiar circumstances of the case, and the authority under which you act, to submit to the Prince Regent the proposition contained in your letter of the 24th instant, for a suspension of hostilities.

From the period at which your instructions must have been issued, it is obvious that this overture was determined upon by the Government of the United States in ignorance of the Order in Council of the 23d of June last, and as you inform me that you are not at liberty to depart from the conditions set forth in your letter, it only remains for me to acquaint you, that the Prince Regent feels himself under the necessity of declining to accede to the propositions therein contained, as being, on various grounds, absolutely inadmissible.

As soon as there was reason to apprehend that Mr. Foster's functions might have ceased in America, and that he might have been obliged to withdraw himself in consequence of war being declared, from the United States, before the above-mentioned Order of the 23d of June, and the instructions consequent thereupon, could have reached him, measures were taken for authorising the British admiral on the American station, to propose to the Government of the United States an immediate and reciprocal revocation of all hostile Orders, with the tender of giving full effect, in the event of hostilities being discontinued, to the provisions of the said Order, upon the conditions therein specified.

From this statement, you will perceive that the view you have taken of this part of the subject is incorrect, and that in the present state of the relations between the two countries, the operation of the Order of the 23d of June, can only be defeated, by a refusal, on the part of your Government, to desist from hostilities, or to comply with the conditions expressed in the said Order.

Under the circumstances of your having no powers to negotiate, I must decline entering into a detailed discussion of the propositions which you have been directed to bring forward.

I cannot, however, refrain, on one single point, from expressing my surprise, namely, that, as a condition, preliminary even to a suspension of hostilities, the Government of the United States should have thought fit to demand, that the British Government should desist from its ancient and accustomed practice of impressing British seamen, when found on board the merchant ships of a foreign State, simply on the assurance, that a law shall hereafter be passed, to prohibit the employment of British seamen in the public or commercial service of that state.

The British Government now, as heretofore, is ready to receive from the Government of the United States, and amicably to discuss any proposition, which professes to have in view either to check abuse in the exercise of the practice of impressment, or to accomplish, by means less liable to vexation, the object for which impressment has hitherto been found necessary, but they cannot consent to suspend the exercise of a right, upon which the naval strength of the empire mainly depends, until they are fully convinced, that means can be devised, and will be adopted, by which the object to be obtained by the exercise of that right can be effectually secured.

I have the honour to be, &c.

(Signed) CASTLEREAGH.

Jona. Russell, Esq.

No. 8.

Mr. Russell to Viscount Castlereagh.

MY LORD,

18, Bentinck-Street, Sept. 1, 1812.

I HAVE learnt with much regret, by your Lordship's note, dated the 29th ult. which I did not receive until this morning, that the Prince Regent has thought proper to decline to accede to the propositions for a suspension of hostilities, contained in my note of the 24th of August.

It has been matter of surprise to me, that my statement, with regard to the revocation of the Orders in Council on the 23d of June last, should have been considered to have been incorrect, when it appears by your Lordship's note, that the British Government itself had deemed it necessary to give powers to the British Admiral to stipulate for its full effect, and thereby admitted that a new act was required for that purpose.

It now only remains for me to announce to your Lordship, that it is my intention to embark immediately at Plymouth, on board the ship *Lark*, for

the United States, and to request that permission may be granted, as soon as may be, for the embarkation of my servants, baggage, and the effects of this legation, and that the necessary passports may be furnished me for my own and their safe conduct to that destination.

I avail myself of this occasion to apprise your Lordship, that I am authorised by the Government of the United States to leave Reuben Gaunt Beasley, Esq. as its agent for prisoners of war in this country, and to desire that every facility may be offered him in the exercise of that trust by the British Government.

I have the honour to be, &c.

(Signed)

JONA. RUSSELL.

Viscount Castlereagh,
&c. &c. &c.

No. 9.

Viscount Castlereagh to Mr. Russell.

SIR,

Foreign Office, September 2, 1812.

I HAVE laid before His Royal Highness the Prince Regent your letter of the 1st inst. in which you announce to me your intention to embark immediately at Plymouth on board the ship *Lark* for the United States.

I have had already the honour of forwarding to you an Admiralty Order for the protection of that ship as a cartel on her voyage to America, and I herewith enclose to you a passport for the free embarkation of yourself and family, in conformity to your request. The Lords Commissioners of His Majesty's Treasury will issue directions to the Commissioners of the Customs to give every facility to the embarkation of your effects.

If, previous to your departure from England, you can point out to me any particular manner in which I may be able to facilitate your arrangements, I beg that you will command my services.

His Royal Highness has commanded me to signify to you, for the information of your Government, that there will be no difficulty in allowing Mr. R. G. Beasley, as stated in your letter, to reside in this country, as the United States' agent for prisoners of war.

I have the honour to subscribe myself, &c.

(Signed)

CASTLEREAGH.

Jona. Russell, Esq.

No. 10.

Mr. Russell to Viscount Castlereagh.

MY LORD,

18, Bentinck-Street, Sept. 12, 1812.

I HASTEN, authorised by instructions recently received from the Government of the United States, and urged by an unfeigned anxiety to arrest the calamities of war, to propose to your Lordship a convention for the suspension of hostilities, to take effect at such time as may be mutually agreed upon, and stipulating "that each party shall forthwith appoint Commissioners, with full powers to form a treaty, which shall provide, by reciprocal arrangements, for the security of their seamen, from being taken or employed in the service of the other power; for the regulation of their commerce, and all other interesting questions now depending between them, and that the armistice shall not cease without such previous notice, by one to the other party, as may be agreed upon, and shall not be understood as having other effect, than merely to suspend military operations by land and by sea."

In proposing to your Lordship these terms for a suspension of hostilities, I am instructed to come to a clear and distinct understanding with His Britannic Majesty's Government, without requiring it to be formal, concerning impressment, comprising in it the discharge of the citizens of the United States already impressed, and concerning future blockades, the revocation of the Orders in Council being confirmed.

Your Lordship is aware that the power of the Government of the United States to prohibit the employment of British seamen must be exercised in the sense and spirit of the constitution: but there is no reason to doubt but that it will be so exercised effectually and with good faith.

Such a measure, as it might by suitable regulations and penalties be made completely effectual and satisfactory, would operate almost exclusively in favour of Great Britain; for as few American seamen ever enter voluntarily into the British service, the reciprocity would be nominal, and it is sincerely believed that it would be more than an equivalent for any advantage she may derive from impressment.

By the proposition which I have now the honour to make in behalf of my Government, your Lordship will perceive the earnest desire of the President to remove every obstacle to an accommodation, which consists merely of form, and to secure the rights and interests of the United States in a manner the most satisfactory and honourable to Great Britain as well as to America.

The importance of the overture now made, will, I trust, obtain for it the early consideration of His Royal Highness the Prince Regent, and I shall detain the vessel in which I have taken my passage to the United States, until I have the honour to learn His decision.

I have the honour to be, &c.

(Signed) JONA. RUSSELL.

Viscount Castlereagh,
 &c. &c. &c.

No. 11.

Viscount Castlereagh to Mr. Russell.

SIR,

Foreign Office, Sept. 18, 1812.

UNDER the explanations you have afforded me of the nature of the instructions which you have received from your Government, I have, as on the preceding occasion, been induced to lay your letter of the 12th inst. before His Royal Highness the Prince Regent.

His Royal Highness commands me to express to you His regret that He cannot perceive any substantial difference between the proposition for a suspension of hostilities, which you are now directed to make, and that which was contained in your letter of the 24th of August last. The form of the proposed arrangement, it is true, is different; but it only appears to aim at executing the same purpose in a more covert, and therefore, in a more objectionable manner.

You are now directed to require, as preliminary to a suspension of hostilities, a clear and distinct understanding, without, however, requiring it to be formal, on all the points referred to in your former proposition. It is obvious, that were this proposal acceded to, the discussion on the several points must substantially precede the understanding required.

This course of proceeding, as bearing on the face of it a character of disguise, is not only felt to be in principle inadmissible, but as unlikely to lead in practice to any advantageous result, as it does not appear, on the important subject of impressment, that you are either authorised to propose any specific plan, with reference to which the suspension of that practice could be made a subject of deliberation, or that you have received any instructions for the

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guidance of your conduct on some of the leading principles, which such a discussion must in the first instance involve.

Under these circumstances, the Prince Regent sincerely laments, that He does not feel himself enabled to depart from the decision, which I was directed to convey to you in my letter of the 2d instant.

I have the honour to be, &c.

(Signed)

CASTLEREAGH.

Jona. Russell, Esq.

No. 12.

Mr. Russell to Viscount Castlereagh.

MY LORD,

London, September 19, 1812.

I had the honour to receive, last evening, your Lordship's note of yesterday; and have learnt with great regret and disappointment, that His Royal Highness the Prince Regent has again rejected the just and moderate propositions, for a suspension of hostilities, which I have been instructed to present on the part of my Government. After the verbal explanations which I had the honour to afford your Lordship on the 16th instant, both as to the object and sufficiency of my instructions, I did not expect to hear repeated any objections on these points. For itself, the American Government has nothing to disguise; and by varying the proposition as to the manner of coming to a preliminary understanding, it merely intended to leave to the British Government that which might be most congenial to its feelings. The propositions presented by me, however, on the 24th of August, and 12th instant, are distinguishable by a diversity in the substance, as well as in the mode of the object which they embraced; as by the former the discontinuance of the practice of impressment was to be immediate, and to precede the prohibitory law of the United States relative to the employment of British seamen, when by the latter, both these measures are deferred, to take effect simultaneously hereafter.

Having made a precise tender of such a law, and exhibited the instructions which warranted it to your Lordship, I have learnt with surprise, that it does not appear to you that I am authorised to propose any specific plan on the subject of impressment. I still hope that the overtures made by me may again be taken into consideration by His Britannic Majesty's Government, and as I leave town this afternoon for the United States, that it will authorise some agent to proceed thither, to adopt them as the basis of a reconciliation between the two countries; an event so devoutly to be wished.

I have the honour to be, &c.

(Signed)

JONA. RUSSELL.

*Viscount Castlereagh,
&c. &c. &c.*

No. 13.

Mr. Beasley to Viscount Castlereagh.

MY LORD,

Wimpole Street, November 11, 1812.

A packet lately delivered to me at the Foreign Office, addressed to Mr. Russell, late Chargé d'Affaires of the United States, contained a dispatch from the Secretary of State, dated at Washington the 21st of August; by which that gentleman was instructed to propose to the British Government

an armistice both by sea and land, at such period as might be concerted in London. And although more than two months have elapsed since the date of this dispatch, and notwithstanding the powers with which it is understood the British Admiral on the Halifax station, has in the mean time been invested for the same purpose, yet, as it is still possible the object in view might be facilitated by corresponding stipulations in London, it would be gratifying to me to have an opportunity of communicating to the Government of the United States, the sentiments of His Majesty's Ministers, upon a point so important to the substantial interests of the two countries. At any rate, my Lord, after mature reflection, I feel it to be my duty not to withhold from the British Government, a distinct communication of the conciliatory spirit in which the dispatch is dictated. The President regrets that circumstances (which I shall be happy to explain to your Lordship), put it out of his power to accede to the arrangement proposed in America.

By the Declaration of His Royal Highness the Prince Regent, which repealed the Orders in Council without reviving the blockade of May 1806, one great obstacle to an accommodation is removed, and it is considered evidence of an amicable disposition in the British Government, from which the President anticipates an easy adjustment of all remaining differences, and an early restoration of permanent peace and good will between the two countries. With this impression, the President felt no inclination to obstruct the conclusion of an armistice, although it should be found impossible to concert simultaneously a definitive arrangement upon that long-agitated, and most important point—the impressment of seamen.

Should the British Government find in this unofficial communication, adequate materials, whereon to ground an arrangement in London, subject to the ratification of the American Government, I should derive great gratification from being instrumental in achieving an object so essential to the best interests of the two nations.

I have the honour to be, &c.
(Signed) R. G. BEASLEY.

Viscount Castlereagh,
&c. &c. &c.

No. 14.

Viscount Castlereagh to Mr. Beasley.

SIR,

Foreign-Office, November 18, 1812.

I HAVE the honour to acknowledge the receipt of your letter of the 11th, and derive much satisfaction from the assurance it contains, of the spirit of conciliation, in which the dispatch from the American Secretary of State, therein referred to, appears to you to be dictated.

If such sentiments should guide the Councils of the United States, the present war, adverse as it is to the best interests of both states, cannot be of long continuance; and, I am happy to acquaint you, that authority has been already given to Sir John Warren, to negotiate and conclude a cessation of hostilities with the Government of the United States, on suitable terms.

It appears, that any stipulations to be signed here, under these circumstances, and which you candidly state must be unofficial on your part, could not, in fact, accelerate the termination of hostilities, whilst it might in its provisions, interfere with what may have been happily agreed upon in America; and of the result of which we may hope to be informed without delay.

(Signed) CASTLEREAGH.

R. G. Beasley, Esq.

No. 15.

Viscount Castlereagh to Mr. Foster.

SIR,

Foreign Office, June 17th, 1812.

As it is desirable that you should be apprized of the intentions of Government, respecting the Orders in Council, as early as possible, I inclose a Memorandum of the declaration which has been made by His Majesty's Ministers, in general terms, in both Houses of Parliament.

The step taken by the French Government by the publication, so repeatedly called for in vain, of a decree for the repeal of the Berlin and Milan Decrees, as far as they relate to American vessels, appears to have afforded an opportunity of putting to the trial the real disposition of that Government, to proceed towards a restoration of the usual intercourse of nations during war, and at the same time of putting equally to the test, the disposition of the American Government, to terminate its differences with Great Britain, and to concur with us in some amicable arrangements, by which the invasions of France upon neutral rights, may, if she perseveres in them, be satisfactorily resisted.

In a few days you will receive a formal instrument upon this subject, with instructions as to your conduct towards the American Government. In the mean time, I only intend this communication, to enable you to open, in conversation, the general nature of the measure about to be taken: but you will not present any note to the American Government, nor permit any minute to be taken of your conversation upon this subject, as the arrangement in its details must be considered as yet open to discussion.

I am, &c.

(Signed)

CASTLEREAGH.

(Inclosure, referred to in No. 15.)

Memorandum.

The revocation of the Orders in Council, as far as regards America, to take effect on the 1st day of August next, but the Orders to revive, on the 1st day of May 1813, unless the conduct of the French Government, and the result of the communication with the Government of the United States should be such, as to enable His Majesty to declare their revival at that time unnecessary.

If, however, within fourteen days after the Declaration (to be hereafter transmitted) shall have been duly notified to the Government of the United States, the exclusion of His Majesty's ships of war from the ports of the United States, and the restrictive measures on the trade and navigation of His Majesty's ships, shall not have been revoked for the same period; in that case the Orders in Council shall immediately revive.

No. 16.

Viscount Castlereagh to Mr. Foster.

SIR,

Foreign Office, June 25, 1812.

You will lose no time in communicating officially to the Government of the United States, the enclosed copy of an Order passed by His Royal Highness the Prince Regent in Council, on the 23d instant, and you will call on the President to exercise, without delay, the powers which he possesses, to annul, by proclamation, all those restrictive laws which either interdict the commerce of His Majesty's subjects, or exclude the ships of war of Great Britain from the harbours of the United States.

Should any acts of Congress be in force of a like nature, over which the President has no immediate jurisdiction, you will claim, on the part of your Government, the repeal of such laws at as early a period as circumstances will permit; and if you should deem it necessary, either from the injurious nature of the particular laws, or from the interval that is likely to elapse before the ordinary meeting of Congress, you will represent to the American Government the importance of assembling that body at an earlier period, with a view to this special object.

I enclose herewith the form of an instrument (No. 1.) to be communicated by you to the American Secretary of State, notifying the abovementioned Order in Council, and the conditions on the observance of which the revocation of the former Orders in Council, with respect to America, is declared to depend; and I am to desire, that in presenting this instrument you will declare the period within which (upon conference with the American Government) you may deem it proper to require the President to perform the acts requisite on his part to annul the restrictive laws in question.

The instrument (No. 2.) is to be used, in case the Government of the United States, contrary to our just expectations, should refuse to abrogate the above laws. Should you unfortunately have occasion to make use of this power, whereby the revocation of the Orders in Council will be rendered null, and of no effect, you will lose no time in making the same public, transmitting immediate intelligence to His Majesty's naval commanders on the American station, desiring the same may be forthwith notified to the naval officers commanding at Jamaica, and in the West Indies.

You will observe, that the present Order upon the face of it, contains an absolute and unqualified revocation of the Orders of January 1807, and of April 1809. It was at first in contemplation to make it only a suspensive Order for a fixed period, as was proposed by the American Government in 1809 to Mr. Jackson, with a view to a negotiation in the interval upon all subsisting differences. Doubts, however, having been suggested whether the powers given by the "Supplement to the Non Intercourse Act," would authorise the President to issue his proclamation upon a mere suspension of the Orders, it was deemed expedient to revoke the Orders, reserving the power to restore or modify them, upon due notice.

This measure has been adopted by the Prince Regent in the earnest wish and hope, either that the Government of France, by farther relaxations of its system, may render a perseverance on the part of Great Britain, in retaliatory measures, unnecessary: or if this hope should prove delusive, that His Majesty's Government may be enabled, in the absence of all irritating and restrictive regulations on either side, to enter with the Government of the United States into amicable explanations, for the purpose of ascertaining whether, if the necessity of retaliatory measures should unfortunately continue to operate, the particular measures to be acted upon by Great Britain, can be rendered more acceptable to the American Government, than those hitherto pursued.

The revocation of the Orders in Council has been made to commence from the 1st of August next, when it is presumed the measure may be tendered for the acceptance of the American Government: you will however observe, that a retrospective effect is given to the Order from the date of Mr. Russell's communication, so that America, if she entitles herself to the benefit of the revocation, will not sustain any disadvantage from the delay which has necessarily occurred in bringing the French Decree under the consideration of His Majesty's Government.

You will not fail to observe, that the present Order in Council revokes the Orders in Council of January 1807, and April 1809, only so far as relates to American vessels, and their cargoes, being American property. In any discussion upon this subject, you will be careful not to admit, that this alleged repeal of the French Decrees, in favour of a particular State, can give that State a claim of right to a corresponding revocation of the British Orders in Council. The reasons for this distinction have been fully detailed in former dispatches, and it is only necessary now to remark, that the course adopted towards America upon the present occasion, rests upon a principle of conciliation, and not of obligation.

Should any question be put to you, with respect to the existence of the blockade of 1806, adhering to your former language in maintenance of the lawfulness of that blockade, you may acquaint the American Government, that in point of fact this particular blockade has been discontinued for a length of time, having been merged in the general retaliatory blockade of the enemy's ports under the Orders in Council; and that His Majesty's Government has no intention of recurring to this, or to any other of the blockades of the enemy's ports, founded upon the ordinary and accustomed principles of maritime law, which were in force previous to the Orders in Council, without a new notice to Neutral Powers in the usual form.

As the British Government cannot doubt that the present measure will immediately lead to an amicable understanding, and a restoration of intercourse between the two States, it is presumed the American Government will lose no time in sending a Minister to this country, possessed of their entire confidence. The remoteness of America from the events passing in Europe, making it of the utmost importance to the cultivation of a good understanding, that an accredited Minister, fully authorised to act for them, in the many delicate cases that necessarily grow out of the present state of Europe, and the measures adopted by the belligerents, should be resident at this Court.

The requisition contained in the Order with respect to the immediate admission of British ships of war, into the harbours and waters of the United States, rests upon the fact that the ships of war of the enemy are at this moment admitted, those of His Majesty being excluded; and upon the undoubted claim the respective belligerents have to be placed in this respect upon the same footing. Should French ships of war be excluded, you are not to consider a corresponding exclusion as applied to ours, as necessarily invalidating the effect of the present Order, the grounds on which the measure is taken remaining to be subsequently discussed between the two Governments.

I have the honour to be, &c.

(Signed)

CASTLEREAGH.

A. J. Foster, Esq.

(For First Inclosure in No. 16, see Paper referred to in No. 3.)

(Second Inclosure, referred to in No. 16.)

(Paper, marked No. 1.)

IN obedience to directions received from his Court, the undersigned, His Britannic Majesty's Minister in America, has the honour to transmit to [] the enclosed document, being an Order of His Royal Highness the Prince Regent in Council, in the name and on the behalf of His Ma-

jesty, bearing date the 23d day of June last; revoking from the 1st day of August 1812, so much of the Orders in Council of the 7th of January 1807, and of the 26th of April 1809, as may regard American vessels and their cargoes, being American property.

The undersigned solicits the attention of the Government of the United States of America, to that part of the Order which relates to the time, when it may be expected that the Government of the said United States, will, conformably to its repeated declarations, revoke, or cause to be revoked, the act or acts by which His Britannic Majesty's ships of war are excluded from entering the ports and waters of the United States, on the same terms on which French ships are admitted therein, and by which the commercial intercourse between Great Britain and the United States is interdicted.

The undersigned begs leave, at the same time, to signify to [] that he is ready and desirous to receive from [] such communications on the subject of those acts as may prevent the friendly provisions of the Order of the 23d day of June 1812, from becoming null, and of no effect.

(Third Inclosure, referred to in No. 16.)

(Paper, marked No. 2.)

In pursuance of the provisions of the Order of His Royal Highness the Prince Regent in Council, in the name and on the behalf of His Britannic Majesty, bearing date the 23d day of June 1812, and communicated by the undersigned to [] Secretary of State of the Government of the United States of America, on the [] day of [] by which it is ordered and declared that,

“Whereas by certain acts of the Government of the United States, all British armed vessels are excluded from the harbours and waters of the said United States, the armed vessels of France being permitted to enter therein, and the commercial intercourse between Great Britain and the said United States is interdicted, the commercial intercourse between France and the said United States having been restored; His Royal Highness the Prince Regent is pleased hereby further to declare, in the name and on the behalf of His Majesty, that if the Government of the said United States, shall not, as soon as may be, after this Order shall have been duly notified by His Majesty's Minister in America, to the said Government, revoke, or cause to be revoked, the said Acts; the present Order shall, in that case, after due notice, signified by His Majesty's Minister in America, to the said Government, be thenceforth null, and of no effect.”

The undersigned His Britannic Majesty's Minister in America, does by virtue of the powers with which he is invested, hereby signify, that the Government of the United States of America has not, as soon as might be, revoked, or caused to be revoked, the said Acts.

But that the Government of the said United States, having, [] within a reasonable time, to revoke the same, or cause the same to be revoked; the aforesaid Order of the 23d of June 1812, is thereby, according to the provisions thereof, rendered, and is henceforth to be considered, null, and of no effect.

No. 17.

Viscount Castlereagh to Mr. Foster.

SIR,

Foreign Office, June 29, 1812.

I transmit to you for your information and guidance, the inclosed copies of my note to Mr. Russell of the 23d instant, communicating the Order in Council of that date, and of Mr. Russell's answer of the 26th; and also a copy of the observations, which, by His Royal Highness's command, I have addressed to Mr. Russell, on the points alluded to in his dispatch.

I have the honour to be, &c.

(Signed)

CASTLEREAGH.

A. J. Foster, Esq.

For the Inclosures referred to in No. 17, see Nos. 3, 4, and 5.

No. 18.

Viscount Castlereagh to Mr. Foster.

SIR,

Foreign Office, July 8, 1812.

Although, from the tenor of your last dispatches, it appeared to be then probable, that the Congress might recommend to the American Government, the immediate issue of letters of marque and reprisal against both belligerents, this Government is willing to hope, that a more mature consideration of the manner in which the Government of France have treated the proposals of the American Minister at Paris, may have so far opened the eyes of the American Government, to the real state of their respective relations with Great Britain and France, as to induce them to pause, before they resort to a measure of such direct hostility to this country. At the same time His Royal Highness the Prince Regent has judged it expedient, that you should be furnished with instructions for your conduct in such an emergency.

The instructions which were forwarded to the commanding officers of His Majesty's ships and vessels on the American station early in May last, will have already pointed out to them the line of conduct which they were to pursue, in the event of the Government of the United States having issued letters of marque and reprisal against the ships and vessels of His Majesty, or of His subjects, in which event, they were directed to proceed immediately to acts of hostility against the ships and vessels belonging to the Government and citizens of the United States.

If this unfortunately be the state of the relations between the two countries, when my dispatch arrives, announcing to you the repeal of the Orders in Council, by the Order in Council passed on the 23d ultimo; you will immediately propose to the American Government, that if they will, without delay, recall their letters of marque and reprisal against British ships, you will instantly require the commanders of His Majesty's ships and vessels on the American station, to desist from corresponding measures of war, in order, that not a moment may be lost in suspending, in every part of the world, where the former instructions may eventually be in force, the hostilities between His Majesty's subjects and the citizens of the United States.

His Royal Highness's commands have been signified to the Lords Commissioners of the Admiralty, that their Lordships do frame their instructions

to the commanding officers on the American station in conformity with the tenour of this dispatch.

I am, &c.

(Signed)

CASTLEREAGH.

A. J. Foster, Esq.

(Inclosure, referred to in No. 18.)

Viscount Castlereagh to the Lords of the Admiralty.

MY LORDS,

Foreign Office, May 9, 1812.

IN consequence of the discussions now pending between this country and the United States of North America, the amicable termination of which, notwithstanding the pacific dispositions of His Royal Highness the Prince Regent, is, at this moment uncertain; and in consideration of the length of time that must necessarily elapse, between any hostile measures on the part of the United States, and any orders which the commanders of His Majesty's ships and vessels upon their coasts could receive from your Lordships thereupon; I am commanded by His Royal Highness the Prince Regent to signify to you, the pleasure of His Royal Highness, acting in the name and on the behalf of His Majesty, that you do furnish to all commanders of His Majesty's ships and vessels upon that station, instructions and authority to repel any hostile aggression which may be made by the ships or vessels of America on any part of His Majesty's naval forces; and that you require them at the same time to take especial care that they commit no act of aggression against the ships or vessels of the United States, and that they avoid, as far as may be consistent with the honour of the British flag, all occasion of dispute or misunderstanding.

It is His Royal Highness's pleasure that your Lordships should farther instruct those officers that, in the event of their receiving information from Mr. Foster, His Majesty's Minister to the United States, of a declaration of war by that country against His Majesty; or from Lieutenant General Prevost, Governor of Canada; or from the Lieutenant Governors of Nova Scotia, or of New Brunswick, that the forces of the United States have invaded or attacked the said provinces; or if they shall learn by any proclamation or other solemn public instrument, that the Government of the said United States have declared war against His Majesty; or if it shall be certified to them, that the said Government have issued letters of marque and reprisal against the ships and vessels of His Majesty, or His subjects; or have attacked, entered, or invaded, with an armed force, any part of His Majesty's dominions; they are authorised, and commanded, in any of these specific cases, to commence direct and actual hostilities with the said United States, and to attack and take, or sink, burn, or destroy all ships and vessels belonging to the same, or to any of the citizens or inhabitants thereof, and to pursue all such other measures, whether offensive or defensive, as may be most effective for annoying the enemy, protecting the trade of His Majesty's subjects, and maintaining the honour of the British flag, and the glory of His Majesty's arms.

I am further to signify to your Lordships, His Royal Highness's pleasure, that you do strictly command and enjoin the commanders of His Majesty's ships and vessels on the aforesaid station, to exercise all possible forbearance towards the citizens of the United States, and to contribute, as far as may depend upon them, to the maintenance of that good understanding, which it is His Royal Highness's most earnest wish to maintain between the two countries.

I have the honour to be, &c.

(Signed)

CASTLEREAGH.

The Lords Commissioners of the Admiralty.

No. 19.

Mr. Baker to Viscount Castlereagh.—(Extract.) Received Oct. 5th, 1812.

Washington, August 10th, 1812.

I HAD the honour to receive on the 5th instant, in the evening, your Lordship's dispatch of the 17th June, addressed to Mr. Foster, with its inclosure.

As Mr. Monroe still continued at his seat in Virginia, situated at a considerable distance from this city, and was not expected to return for some days; I went late in the same evening to Mr. Graham, the Chief Clerk in the Department of State, to whom I had been requested to address myself in the absence of his principal, and acquainting him that I had a communication to make to the American Government, of considerable importance, expressed a wish to see the President, if there was no impropriety in so doing, as from the nature of the communication which would be throughout only verbal, it would evidently be more accurately conveyed to him in an interview, than by passing through an intermediate person.

The following morning I went to the Department of State, in consequence of a note from Mr. Graham, who informed me that the President, after many polite expressions, as regarded myself personally, preferred receiving what I had to state through the usual channel, and that he was authorised, as Mr. Monroe's representative, to convey my communication to the President.

After fully satisfying Mr. Graham that the only object of the request I had made, was to ensure greater accuracy than could possibly be otherwise obtained, I proceeded to remind him of the great stress that had always been laid by His Majesty's Government upon the production of the instrument repealing the Berlin and Milan Decrees, that His Majesty's Government had considered it necessary that the repeal of those Decrees should take place in the same manner and form as their enactment; that this, it appeared, had been now done, as Mr. Russell had officially notified to your Lordship the publication of a decree for the repeal of the Berlin and Milan Decrees, as far as they relate to America; that an opportunity was thus afforded of putting to the trial the real disposition of the French Government, to proceed towards a restoration of the usual intercourse between nations during war, and of enabling the American Government to evince its disposition to terminate its differences with Great Britain, and to concur with her in some amicable arrangement, by which the invasion of France upon neutral rights might, if persevered in, be satisfactorily resisted.

Mr. Russell's note, I informed Mr. Graham, transmitting an authenticated copy of the Decree in question, had been received on May 21. Events had occurred subsequently, and which were matters of notoriety, which had prevented this important subject from being taken into consideration until the 8th of June, after which time it had been fully discussed by His Majesty's Government, and the first result of their deliberations made known in the House of Commons on the night of June 16th. In order that their intentions on this head, might as early as possible come to the knowledge of the American Government, Mr. Foster had been authorised, with a view of opening the subject, to communicate verbally, (which he had now empowered me to do) that the revocation of the Orders in Council, as far as regards America, would take effect on the first day of August, (the present month) to revive on the first of May, 1813, unless the conduct of the French Government, and the result of the communication with the Government of the United States, should be such, as to enable His Majesty to declare their revival at that time unnecessary; but, that if within fourteen days after the declaration (which was to be transmitted) shall have been duly notified to the Government of the United States, the exclusion of His Majesty's ships of war from the ports of

the United States, and the restrictive measures on the trade and navigation of His Majesty's subjects, shall not have been revoked for the same period, in that case the Orders in Council were immediately to revive.

I here stated, that this communication was merely meant to show generally what were the intentions of His Majesty's Government, and that some instructions were to be sent without delay to Mr. Foster, which would contain the precise nature of the measure, which was then about to be adopted.

Adverting to the change which had occurred in the relations between the two countries, I next acquainted Mr. Graham, for the President's information, that if, in consequence of this verbal communication, which went to the removal of the chief obstacle in the way of peace, the Government of the United States thought fit to suspend hostilities, and to receive me in the capacity of Chargé d'Affaires, I was authorised by Mr. Foster to assume that character, and to act upon the instructions which might be hereafter received.

I likewise stated, that if the President, considering this communication as a means of producing eventually the re-establishment of peace, and of a good understanding between the two countries, was therefore disposed to put a stop to further hostilities, I was able to assure him, that overtures of such a nature would be met by a correspondent disposition in Vice Admiral Sawyer, and Sir John Sherbrooke; and that Mr. Foster had written to Sir George Prevost to recommend him to suspend hostilities upon his receiving intimation from the American commanders, that they would on their side discontinue all hostile proceedings, and that he had no doubt, but that the Captain General would act accordingly. That I was authorised more particularly to state with relation to the sentiments of the two former officers, that they would concur on their parts in the suspension of hostilities, a day being named, after which all vessels that might be captured should not be proceeded against, but be considered as detained for the future decision of the respective Governments.

Mr. Graham heard me with great attention, occasionally interrupting me for the purpose of requesting that I would repeat particular parts of what I stated, and explain others. The latter I was precluded from doing as fully as he seemed to wish, by the preliminary nature of the business in its present shape. After some general remarks, with which it is not now necessary to detain your Lordship, as he considered himself merely as the organ through which the communication was to pass, Mr. Graham informed me, that he would immediately make known the subject of this interview to the President, and take the earliest opportunity of acquainting me with his reply; and upon my leaving him, proceeded to the President's house.

Your Lordship will perceive, that in the whole of this communication, I was careful to confine myself in the strictest manner to the instructions which were contained in your Lordship's dispatch, and in the letter of Mr. Foster, and that I made use, as nearly as possible, upon all the most material points, of the precise words employed in those papers.

I heard nothing from Mr. Graham till the evening, when I received a note, informing me that he would call upon me the following morning, not having had it in his power to do so that day. When he came at the time appointed, he acquainted me that he had taken the President's pleasure with respect to what I had stated yesterday, who had authorised him to reply to the following effect.

That notwithstanding the communication was so general and informal, yet it was received with sincere satisfaction, as opening a door to an early and satisfactory termination of existing hostilities, and likewise to an entire accommodation of the differences which produced them, and to that permanent peace, and solid friendship, which it was so much the interest of both countries to produce, and which was so sincerely desired by the United States.

With this view, authority had been given to Mr. Russell on the subject of an armistice, as introductory to a final pacification between the two countries, and that the same spirit would exist on the receipt of the more particular communications, whenever I was able to present them.

That Mr. Foster's authority to me, under existing circumstances, to act as

Chargé d'Affaires, was considered inadequate, and that, in consequence it became impracticable that I should be received in that capacity, although I might be assured that any communication I might make, would meet with as much attention and respect, as if I actually enjoyed that character.

With respect to the intimation from Mr. Foster, and the British authorities at Halifax, relative to a suspension of judicial proceedings in the case of maritime captures, to be accompanied by a suspension of military operations; the authority given to Mr. Russell was a satisfactory proof of the desire of the American Government to bring about a general suspension of hostilities as soon as possible, and that therefore it was evident, any other practicable expedient with the same object would readily be concurred in; that considering, however, in the most favourable light, the expedient which had been pointed out, it did not appear reducible to any practicable shape to which the executive would be authorised to give the necessary sanction; nor was it probable, that if it was less liable to insuperable difficulties, that it could have any material effect, previously to the receipt of intelligence relative to the result of the pacific advance made by the American Government, and which would, if favourably received, become operative as soon as any other arrangement that could now be adopted.

The above, my Lord, conveys pretty accurately the reply which Mr. Graham was authorised to make, which I have been able to render more correct, by conversations which I have since had with him.

The insuperable difficulties in the way of the arrangement in which Admiral Sawyer and Sir John Sherbrooke expressed their readiness to concur, relate chiefly to the privateers, the President being convinced that he has no authority, under existing laws, to suspend the proceedings against captured vessels in the Prize Courts of the United States, nor to restore such vessels after they have been legally taken; and although he might be able to controul the actions of the public armed ships in making captures, his powers with respect to the privateers are limited by express laws.

I ventured, however, to request Mr. Graham again to call the President's attention to the subject of a suspension of hostilities, upon the grounds that the strong proofs of a conciliatory disposition, which had been manifested by Admiral Sawyer, and the Lieutenant-Governor of Nova Scotia, (in which there was little doubt that Sir George Prevost coincided) afforded the strongest presumption, that any equitable proposal to put a stop to hostilities, which might be made on the part of the United States, would be immediately acceded to by them, and that thus might be prevented the occurrence of any events tending to create irritation, which the present state of things was hourly exposed to.

The answer which I received, simply stated, as reasons for declining to adopt any such measure under existing circumstances, the same communication with relation to the result of Mr. Russell's overture, which are contained in the latter part of the communication, which Mr. Graham had been authorised to make to me.

Taking into view the whole of these circumstances, it appears evident, that the powers which Mr. Russell possesses, are considered as furnishing the readiest means of an advance towards peace, the first step to produce which, (in the event of affairs having that tendency) is therefore, expected to be taken by him.

As the case in which Mr. Foster empowered me to act, upon the subsequent instructions from your Lordship, has not occurred, I, of course, am precluded from making any official communication of the expected document to the American Government.

I should not omit to mention, that it was agreed, that the whole of the communication I had made was to be considered confidential, and that no minutes were taken of what passed.

I intend writing by the present opportunity, to acquaint Vice-Admiral Sawyer, Sir George Prevost, and Sir John Sherbrooke, that no change in the situation of affairs has taken place.

As Mr. George Barclay intends to remain at New York, I shall give these letters into the custody of a confidential servant belonging to Mr. Foster, who will carry them to Halifax, in the *Gleaner*, and afterwards proceed to England, to deliver this dispatch to your Lordship, of which I have sent a copy to Mr. Foster for his information.

(Inclosure, referred to in No. 19.)

Mr. Foster to Mr. Baker.

SIR,

Halifax, July 22d, 1812.

My departure having been delayed a day, I received the inclosed dispatch, per the *Gleaner*, just arrived.

I send my letter, under cover, to Mr. Monroe: you will of course, act as the dispatch directed me.

Should the American Government, in consequence of your verbal communication, agree to receive you as His Majesty's Chargé d'Affaires, you have my authority to act as such, and to make the communication of the expected document to the American Government, in the manner which shall be pointed out in Lord Castlereagh's future dispatches.

If the American Government agree to suspend hostilities in consequence of your verbal communication, or of that which you may, as Chargé d'Affaires, afterwards deliver in writing, you are hereby authorized to state, that upon a communication which I have had with Vice-Admiral Sawyer, and with Sir John Sherbrooke, the Lieutenant-Governor of this province, both those Officers have enabled me to say, that they will on their part, concur in the suspension, a day being named, after which, all vessels that may be captured, shall not be proceeded against, but be considered as detained for the future decision of the respective Governments.

The signification of the intention of the American Government, if not made through you, as Chargé d'Affaires, must of course proceed through their own Officers.

I have written this day, by express, to the Captain-General in Canada, to recommend to him to suspend hostilities, immediately upon his receiving any intimation from the American Commanders, that they on their side will suspend their hostile operations, and I have no doubt, but he will be ready to act accordingly.

You will, of course, communicate the result of your interview with Mr. Monroe, to the Admiral as early as possible.

I shall probably sail this evening or to-morrow morning.

The Vice-Admiral has ordered the Commander of the *Gleaner*, to await the return of the Messenger, when you think fit to dispatch him.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

Anty. St. John Baker, Esq.

No. 20.

Mr. Baker to Viscount Castlereagh.—(Extract.) Received Oct. 5th, 1812.

Washington, August 24th, 1812.

MR. MONROE returned to this city on the 16th inst. in the evening; I immediately wrote a note, expressing my readiness to wait upon him, at any time which he might do me the honour to appoint, and in consequence saw him the following morning, at the Department of State.

He informed me, that he had become acquainted with the circumstances of the communication, which I had been authorized to make, of the intentions of His Majesty's Government, relative to the Orders in Council, as likewise with the answer, which had been returned to me through Mr. Graham, but that he had not time as yet to give the subject the mature consideration which it deserved, nor to communicate fully with the President respecting it. He then dwelt upon the difficulties arising out of the nature of the constitution, which prevented the President from concurring in the proposition which had been made for a suspension of condemnation in the case of maritime captures, and upon the embarrassments which stood in the way of any suspension of hostilities by sea, and even by land, except in the form of a convention; and said, that it was a great extension of General Dearborn's authority to suppose, situated as he was, within the United States, with ready means of communication with his Government, that he was capable of adopting any measure putting a stop to hostilities, but that the same powers could not be possessed by any person in relation to the maritime warfare, independently of the obstacles growing out of the question of privateers. He promised, however, to take the earliest opportunity of conversing with me again on these subjects, when he should have considered them with greater attention.

As he seemed to express himself, with a shade of doubt, as to the Order in Council, of June 23d; and as that Order had been incorrectly copied into some of the newspapers in this country, I put him in possession of one of the London Gazettes, which were transmitted in your Lordship's circular dispatch, with a positive assurance, that the Order contained in it was an authentic document, upon the correctness of which he might most implicitly rely. I had previously given to Mr. Graham another of the Gazettes, with a view to the President's private information.

Being under an impression, from the whole tenour of Mr. Monroe's conversation, that the adoption of some immediate measure, by this Government, was not altogether hopeless, I waited with some anxiety for the communication which he had promised me; not hearing any thing further, however, I called upon him, when, after apologising for the delay which had taken place, he informed me that he had nothing to add to the answer which Mr. Graham had been directed to give to me, which contained the entire sentiments of the Government, under the present circumstances, and that no measure could be taken, founded on the Order in Council of June 23, in consequence of the total change in the relations of the two countries, which had occurred since it was issued, and the ignorance of the effect which this change might have upon the policy of Great Britain. I enquired whether the want of the Order being officially notified, had any weight in this determination of the American Government. He replied that it had not, and that it was the state of war which prevented the repeal of the Non-importation Act; and on my mentioning the distinct operation of that act, in the case of neutral vessels importing British manufactures, he said that the commercial restrictions were looked upon as an engine of hostility, and would, in consequence, be of the same duration as the war.

It is needless to trouble your Lordship with the arguments I made use of to shew how incumbent it was upon the United States, by an immediate suspension of hostilities, to evince the same readiness to produce peace, now that the chief cause of the war had been removed, which they had manifested in commencing hostilities, more especially as so fair an opening had been afforded by the conciliatory propositions from the British commanders, to which, in the instance of Canada, at least, no insuperable difficulties were allowed to exist.

Mr. Monroe, in reply to a question from me, said, that what he had stated respecting a suspension of hostilities, might be considered as final, but expressed great hopes of that measure being soon adopted here as the result of Mr. Russell's overture, if it had been favourably received by His Majesty's Government. He likewise informed me that an answer had been returned to the letter which General Dearborn had written to the Government at Wash-

ington, in consequence of which, the temporary suspension of hostilities which ensued, in the first instance, on the delivery of Sir George Prevost's letter at Albany, would be terminated; adding, however, that no immediate movement was in contemplation on the part of the American forces.

As all prospect of any step being taken by this Government, before the result of Mr. Russell's overture arrives, is now at an end, I do not consider myself at liberty to communicate, even verbally, with Mr. Monroe, respecting any instructions which may be received from your Lordship, in relation to the repeal of the Orders in Council, the arrival of which may be daily looked for; the only circumstance which might have been thought to sanction my so doing, was the probability of some essential good being thereby produced, such as a suspension of hostilities, and repeal of the Non-importation law, the attainment of which objects (if by any means practicable) with a view to facilitate a final pacification, seemed to be so important, that I trust your Lordship's indulgence may be extended to me, in case it may appear that I have ventured, in my representations on the subject, in some degree beyond what was prescribed by the strict limits of duty under my present situation.

The favourable effect which has been produced upon the public sentiment in this country, (as far as my means of observation will enable me to ascertain) by the repeal of the Orders in Council; the conciliatory disposition manifested by His Majesty's Government towards the United States; and a knowledge of the pacific advance made by the Captain General of Canada (which has become public), is extensive and general.

No. 21.

Mr. Baker to Viscount Castlereagh.—(Extract.)

Philadelphia, September 16th. Received 20th October, 1812.

THE July Packet arrived at New York on the 11th instant. I received by that mail, the duplicate of your Lordship's dispatch, of the 23d of June.

No. 22.

Admiral Sir J. B. Warren to Mr. Monroe. Received Dec. 26th, 1812.

SIR,

Halifax, Nova Scotia, Sept. 30th, 1812.

THE departure of Mr. Foster from America, has devolved upon me the charge of making known to you, for the information of the Government of the United States, the sentiments entertained by His Royal Highness the Prince Regent, upon the existing relations of the two countries.

You will observe from the enclosed copy of an Order in Council, bearing date the 23d June 1812, that the Orders in Council of the 7th January 1807, and the 26th April 1809, ceased to exist nearly at the same time that the Government of the United States declared war against His Majesty.

Immediately on the receipt of this declaration in London, the Order in Council, of which a copy is herewith enclosed to you, was issued, on the 31st day of July, for the embargo and detention of all American ships.

Under these circumstances, I am commanded to propose to your Government the immediate cessation of hostilities between the two countries; and I shall be most happy to be the instrument of bringing about a reconciliation, so interesting and beneficial to America and Great Britain.

I therefore propose to you, that the Government of the United States of America, shall instantly recall their letters of marque and reprisal against Bri-

ish ships, together with all orders and instructions for any acts of hostility whatever against the territories of His Majesty, or the persons or property of His subjects; with the understanding, that immediately on my receiving from you an official assurance to that effect, I shall instruct all the officers under my command, to desist from corresponding measures of war against the ships and property of the United States, and, that I shall transmit, without delay, corresponding intelligence to the several parts of the world where hostilities may have commenced; the British commanders in which will be required to discontinue hostilities, from the receipt of such notice.

Should the American Government accede to the above proposal for terminating hostilities, I am authorized to arrange with you as to the revocation of the laws which interdict the commerce and ships of war of Great Britain from the harbours and waters of the United States; in default of which revocation within such reasonable period as may be agreed upon, you will observe, by the Order of the 23d June, the Orders in Council of January 1807, and April 1809, are to be revived.

The officer who conveys this letter to the American coast, has received my orders to put to sea immediately upon the delivery of this dispatch to the competent authority; and I earnestly recommend that no time may be lost in communicating to me the decision of your Government, persuaded as I feel, that it cannot but be of a nature to lead to a speedy termination of the present differences.

The flag of truce which you may charge with your reply will find one of my cruizers at Sandy Hook, ten days after the landing of this dispatch, which I have directed to call there with a flag of truce for that purpose.

I have the honour to be. &c.

(Signed) JOHN BORLASE WARREN.

Admiral of the Blue, and Commander in Chief, &c.

The Secretary of State of the United States.

(Order in Council of the 31st of July 1812.)

At the Court House, the 31st of July 1812. Present, His Royal Highness the Prince Regent in Council.

It is this day ordered, by His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, and by and with the advice of His Majesty's Privy Council, that no ships or vessels belonging to any of His Majesty's subjects, be permitted to enter and clear out for any of the ports within the territories of the United States of America, until further orders: And His Royal Highness is further pleased, in the name and on the behalf of His Majesty, and by and with the advice aforesaid, to order, that a general embargo or stop be made of all ships and vessels whatsoever, belonging to the citizens of the United States of America, now within, or which shall hereafter come into any of the ports, harbours, or roads, within any part of His Majesty's dominions, together with all persons and effects on board all such ships and vessels; and that the Commanders of His Majesty's ships of war and privateers do detain and bring into port all ships and vessels belonging to the citizens of the United States of America, or bearing the flag of the said United States, except such as may be furnished with British licences, which vessels are allowed to proceed according to the tenor of the said licences; but that the utmost care be taken for the preservation of all and every part of the cargoes on board any of the said ships or vessels, so that no damage or embezzlement whatever be sustained; and the Commanders of His Majesty's ships of war and privateers are hereby instructed to detain and bring into port every such ship and vessel accordingly, except such as are above excepted: And the Right Honourable the Lords Commissioners of His Majesty's Treasury, the Lords

Commissioners of the Admiralty, and the Lord Warden of the Cinque Ports, are to give the necessary directions herein, as to them may respectively appertain.
(Signed) CHETWYND.

No. 23.

Mr. Monroe to Sir J. B. Warren. Received 26th Dec. 1812.

SIR,

Department of State, Oct. 27, 1812.

I have had the honour to receive your letter of the 30th ultimo, and to submit it to the consideration of the President.

It appears that you are authorised to propose a cessation of hostilities between the United States and Great Britain, on the ground of the repeal of the Orders in Council; and, in case the proposition is acceded to, to take measures in concert with this Government, to carry it into complete effect on both sides.

You state also, that you have it in charge, in that event, to enter into an arrangement with the Government of the United States for the repeal of the laws which interdict the ships of war and the commerce of Great Britain from the harbours and waters of the United States. And you intimate, that if the proposition is not acceded to, the Orders in Council (repealed conditionally by that of the 23d June last) will be revived against the commerce of the United States.

I am instructed to inform you, that it will be very satisfactory to the President to meet the British Government in such arrangements as may terminate, without delay, the hostilities which now exist between the United States and Great Britain, on conditions honourable to both nations.

At the moment of the declaration of war, the President gave a signal proof of the attachment of the United States to peace. Instructions were given at that early period to the late Chargé d'Affaires of the United States at London, to propose to the British Government an armistice, on conditions which it was presumed would have been satisfactory. It has been seen with regret that the proposition made by Mr. Russell, particularly in regard to the important interest of impressment, was rejected, and that none was offered, through that channel, as a basis on which hostilities might cease.

As your Government has authorised you to propose a cessation of hostilities, and is doubtless aware of the important and salutary effect which a satisfactory adjustment of this difference cannot fail to have on the future relations between the two countries, I indulge the hope that it has, ere this, given you full powers for the purpose. Experience has sufficiently evinced that no peace can be durable unless this object is provided for. It is presumed, therefore, that it is equally the interest of both countries to adjust it at this time.

Without farther discussing questions of right, the President is desirous to provide a remedy for the evils complained of on both sides. The claim of the British Government is to take from the merchant vessels of other countries British subjects. In the practice, the commanders of British ships of war often take from the merchant vessels of the United States, American citizens. If the United States prohibit the employment of British subjects in their service, and enforce the prohibition by suitable regulations and penalties, the motive for the practice is taken away. It is in this mode that the President is willing to accommodate this important controversy with the British Government, and it cannot be conceived on what ground the arrangement can be refused.

A suspension of the practice of impressment, pending the armistice, seems to be a necessary consequence. It cannot be presumed, while the parties are engaged in a negotiation to adjust amicably this important difference, that the

United States would admit the right or acquiesce in the practice of the opposite party; or that Great Britain would be unwilling to restrain her cruizers from a practice which would have the strongest tendency to defeat the negotiation. It is presumable that both parties would enter into the negotiation with a sincere desire to give it effect. For this purpose it is necessary that a clear and distinct understanding be first obtained between them, of the accommodation which each is prepared to make. If the British Government is willing to suspend the practice of impressment from American vessels, on consideration that the United States will exclude British seamen from their service, the regulations by which this compromise should be carried into effect, would be solely the object of negotiation. The armistice would be of short duration. If the parties agreed, peace would be the result. If the negotiation failed, each would be restored to its former state, and to all its pretensions, by recurring to war.

Lord Castlereagh, in his note to Mr. Russell, seems to have supposed, that had the British Government accepted the propositions made to it, Great Britain would have suspended immediately the exercise of a right, on the mere assurance of this Government, that a law would be afterwards passed to prohibit the employment of British seamen in the service of the United States, and that Great Britain would have no agency in the regulations to give effect to that prohibition. Such an idea was not in the contemplation of this Government, nor is it to be reasonably inferred from Mr. Russell's note: lest, however, by possibility such an inference might be drawn from the instructions to Mr. Russell, and anxious that there should be no misunderstanding in the case, subsequent instructions were given to Mr. Russell, with a view to obviate every objection of the kind alluded to. As they bear date on the 27th of July, and were forwarded by the British packet *Alpheia*, it is more than probable that they may have been received and acted on.

I am happy to explain to you thus fully the views of my Government on this important subject. The President desires that the war which exists between our countries, should be terminated on such conditions as may secure a solid and durable peace. To accomplish this great object, it is necessary that the interest of impressment be satisfactorily arranged. He is willing that Great Britain should be secured against the evils of which she complains. He seeks, on the other hand, that the citizens of the United States should be protected against a practice which, while it degrades the nation, deprives them of their right as freemen, takes them by force from their families and their country into a foreign service, to fight the battles of a foreign power, perhaps against their own kindred and country.

I abstain from entering, in this communication, into other grounds of difference. The Orders in Council having been repealed (with a reservation not impairing a corresponding right on the part of the United States), and no illegal blockades revived or instituted in their stead, and an understanding being obtained on the subject of impressment, in the mode herein proposed, the President is willing to agree to a cessation of hostilities, with a view to arrange by a treaty, in a more distinct and ample manner, and to the satisfaction of both parties, every other subject of controversy.

I will only add, that if there be no objection to an accommodation of the difference relating to impressment, in the mode proposed, other than the suspension of the British claim to impressment during the armistice, there can be none to proceeding, without the armistice, to an immediate discussion and arrangement of an article on that subject. This great question being satisfactorily adjusted, the way will be open either for an armistice, or any other course leading most conveniently and expeditiously to a general pacification.

I have the honour to be, &c.
(Signed) JAMES MONROE.

Admiral Sir J. B. Warren.

ERRATUM.—In the list of Papers, line 4, for "23d June 1811," read "23d June 1812."

11
AMERICA.

CORRESPONDENCE

OF

**THE MARQUESS WELLESLEY,
THE EARL OF LIVERPOOL,**

AND

VISCOUNT CASTLEREAGH,

WITH

THE AMERICAN MINISTERS IN LONDON.

JANUARY 1810 TO JULY 1812.

A.

PRESENTED TO PARLIAMENT, BY COMMAND OF HIS ROYAL HIGHNESS THE
PRINCE REGENT, FEBRUARY 1813.

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LIST OF PAPERS.

A.

- No. 1. Mr. Pinkney to the Marquess Wellesley, dated 2d January 1810.
2. Ditto to Ditto dated 15th February 1810.
3. The Marquess Wellesley to Mr. Pinkney, dated 6th March 1810.
4. Mr. Pinkney to the Marquess Wellesley, dated 7th March 1810.
5. The Marquess Wellesley to Mr. Pinkney, dated 14th March 1810.
6. Mr. Pinkney to the Marquess Wellesley, dated 17th March 1810.
7. The Marquess Wellesley to Mr. Pinkney, dated 26th March 1810.
8. Mr. Pinkney to the Marquess Wellesley, dated 30th April 1810.
9. Ditto to Ditto dated 25th August 1810.
10. The Marquess Wellesley to Mr. Pinkney, dated 31st August 1810.
11. Mr. Pinkney to the Marquess Wellesley, dated 21st September 1810.
Three Inclosures.
12. Mr. Pinkney to the Marquess Wellesley, dated 3d November 1810.
13. The Marquess Wellesley to Mr. Pinkney, dated 4th December 1810.
14. Ditto to Ditto dated 6th December 1810.
15. Mr. Pinkney to the Marquess Wellesley, dated 10th December 1810.
Three Inclosures, and Translation.
16. The Marquess Wellesley to Mr. Pinkney, dated 29th December 1810.
17. Mr. Pinkney to the Marquess Wellesley, dated 14th January 1811.
18. Ditto to Ditto dated 14th January 1811.
Two Inclosures.
19. The Marquess Wellesley to Mr. Pinkney, dated 11th February 1811.
20. Ditto to Ditto dated 12th February 1811.
21. Mr. Pinkney to the Marquess Wellesley, dated 13th February 1811.
22. Ditto to Ditto dated 13th February 1811.
23. The Marquess Wellesley to Mr. Pinkney, dated 15th February 1811.
24. Ditto (Private) to Ditto dated 15th February 1811.
25. Mr. Pinkney to the Marquess Wellesley, dated 17th February 1811.
26. The Marquess Wellesley (private) to Mr. Pinkney, dated 23d February 1811.
27. Mr. Pinkney to the Marquess Wellesley, dated 23d February 1811.
28. Mr. Smith to the Marquess Wellesley, dated 27th May 1811.
29. Ditto to Ditto dated 5th June 1811.
One Inclosure.
30. Mr. Smith to the Marquess Wellesley, dated 23d July 1811.
One Inclosure.
31. The Marquess Wellesley to Mr. Smith, dated 8th August 1811.
32. Ditto to Ditto dated 14th August 1811.
33. Mr. Russell to the Marquess Wellesley, dated 8th January 1812.
34. Ditto to Ditto dated 8th February 1812.
One Inclosure.
35. The Earl of Liverpool to Mr. Russell, dated 20th February 1812.
One Inclosure.
36. Mr. Russell to the Earl of Liverpool, dated 21st February 1812.
37. Viscount Castlereagh to Mr. Russell, dated 21st April 1812.
One Inclosure.
38. Mr. Russell to Viscount Castlereagh, dated 25th April 1812.
39. Ditto to Ditto received 9th July 1812,
Two Inclosures.

4

P A P E R S

RELATING TO

A M E R I C A.

A.

No. 1.

Mr. Pinkney to the Marquess Wellesley.

MY LORD,

Great Cumberland-Place, January 2, 1812.

IN the course of the official correspondence which has lately taken place between the Secretary of State of the United States and Mr. Jackson, His Majesty's Envoy Extraordinary and Minister Plenipotentiary at Washington, it has unfortunately happened that Mr. Jackson has made it necessary that I should receive the commands of the President to request his recall, and that, in the mean time, the intercourse between that Minister and the American Government should be suspended.

I am quite sure, my Lord, that I shall best consult your Lordship's wishes, and the respect which I owe to His Majesty's Government, by executing my duty on this occasion with perfect simplicity and frankness. My instructions, too, point to that course, as required by the honour of the two Governments, and as suited to the confidence which the President entertains in the disposition of His Majesty's Government to view in its true light the subject to which they relate. With such inducements to exclude from this communication every thing which is not intimately connected with its purpose, and, on the other hand, to set forth with candour and explicitness the facts and considerations which really belong to the case, I should be unpardonable if I fatigued your Lordship with unnecessary details, or affected any reserve.

It is known to your Lordship that Mr. Jackson arrived in America, as the successor of Mr. Erskine, while the disappointment produced by the disavowal of the arrangement of the 19th of April was yet recent, and while some other causes of dissatisfaction, which had been made to associate themselves with that disappointment, were in operation. But your Lordship also knows that his reception by the American Government was marked by all that kindness and respect which were due to the representative of a Sovereign with whom the United States were sincerely desirous of maintaining the most friendly relations.

Whatever were the hopes which Mr. Jackson's mission had inspired of satisfactory explanations and adjustments upon the prominent points of difference between the two Countries, they certainly were not much encouraged by the conferences, in which, as far as he thought proper, he opened to Mr. Smith, soon after his arrival, the nature and extent of his powers, and the views of his Government. After an experiment, deemed by the Government of the United States to be sufficient, it appeared that those conferences, necessarily liable to misconception and want of precision, were not likely to lead to any practical conclusion.

B

Accordingly, on the 9th of October, Mr. Smith addressed a letter to Mr. Jackson, in which, after stating the course of proceeding which the American Government had supposed itself entitled to expect from him, with regard to the rejected arrangement and the matters embraced by it, and after recapitulating what Mr. Smith believed to have passed in their recent interviews relative to those subjects, he intimated that it was thought expedient that their further discussions on that particular occasion should be in writing.

It is evident, my Lord, from Mr. Jackson's reply of the 11th of the same month, that he received this intimation (which, carefully restricted as it was, he seems to have been willing to understand in a general sense,) with considerable sensibility. He speaks of it in that reply as being without example in the annals of diplomacy, as a step against which it was fit to enter his protest, as a violation in his person of the most essential rights of a public Minister, as a new difficulty thrown in the way of a restoration of a thorough good understanding between the two countries.

I need not remark to your Lordship that nothing of all this could with propriety be said of a proceeding, in itself entirely regular and usual, required by the state of the discussions to which only it was to be applied, and proposed in a manner perfectly decorous and unexceptionable. The Government of the United States had expected from Mr. Jackson an explanation of the grounds of the refusal, on the part of his Government, to abide by Mr. Erskine's arrangement, accompanied by a substitution of other propositions. It had been collected from Mr. Jackson's conversations, that he had no power whatsoever to give any such explanation; or, in the business of the Orders in Council, to offer any substitute for the rejected agreement; or, in the affair of the Chesapeake, to offer any substitute that could be accepted; and it had been inferred, from the same conversation, that, even if the American Government should propose a substitute for that part of the disavowed adjustment which regarded the Orders in Council, the substitute would not be agreed to (if indeed Mr. Jackson had power to do more than discuss it,) unless it should distinctly recognize conditions which had already been declared to be wholly inadmissible. To what valuable end, my Lord, loose conversations, having in view either no definite result, or none that was attainable, should, under such circumstances, and upon such topics, be continued, it would not be easy to discover; and I think I may venture to assume, that the subsequent written correspondence has completely shewn that they could not have been otherwise than fruitless, and that they were not too soon abandoned, for that more formal course to which, from the beginning, they could only be considered as preparatory.

After remonstrating against the wish of the American Government to give to the further discussions a written form, Mr. Jackson disposes himself to conform to it; and speaking in the same letter of the disavowal of the arrangement of April, he declares that he was not provided with instructions to explain the motives of it; and he seems to intimate that explanation through him was unnecessary, not only because it had already been made through other channels, but because the Government of the United States had entered into the arrangement with a knowledge "that it *could only* lead to the consequences that actually followed." In the conclusion of the fourth paragraph of the letter, he informs Mr. Smith, that the dispatch of Mr. Canning to Mr. Erskine, "which Mr. Smith had made the basis of an official correspondence with the latter Minister, and which had been read to the American Minister in London," was the only dispatch by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement with the United States on the matter to which it related.

Mr. Smith's answer to this letter bears date the 19th of October, and I beg your Lordship's permission to introduce from it the following quotation:

"The stress you have laid on what you have been pleased to state as the substitution of the terms finally agreed on" (in the arrangement of April on the Orders in Council) "for the terms first proposed," (by Mr. Erskine,) "has excited no small degree of surprise. Certain it is, that your prede-

cessor did present for my consideration the same conditions which now appear in the present document, that he was disposed to urge them more than the nature of two of them (both palpably inadmissible, and one more than merely inadmissible) could permit; and, that, on finding his first proposal unsuccessful, the more reasonable terms comprised in the arrangement respecting the Orders in Council were adopted. And what is there in this to countenance the conclusion you have drawn in favour of the right of his Britannic Majesty, to disavow the proceeding? Is any thing more common in public negotiations, than to begin with a higher demand, and, that failing, to descend to a lower? To have, if not two sets of instructions, two, or more than two, grades of propositions in the same set of instructions; to begin with what is the most desirable, and to end with what is found to be admissible, in case the more desirable should not be attainable? This must be obvious to every understanding, and is confirmed by universal experience.

“What are the real and entire instructions given to your predecessor, is a Question essentially between him and his government. That he had, or, at least, that he believed he had, sufficient authority to conclude the arrangement, his formal assurances during our discussions were such as to leave no room for doubt. His subsequent letter, of the 15th of June, renewing his assurance to me, that the terms of the agreement so happily concluded by the recent negociation will be strictly fulfilled on the part of his Majesty, is an evident indication of what his persuasion then was as to his instructions. And with a view to shew what his impressions have been even since the disavowal, I must take the liberty of referring you to the annexed extracts from his official letters of the 31st of July, and of the 14th of August.

“The declaration, that the dispatch from Mr. Canning to Mr. Erskine of the 23d of January is the only dispatch, by which the conditions were prescribed to Mr. Erskine for the conclusion of an arrangement on the matter to which it relates, is now for the first time made to this Government. And I need hardly add, that, if that dispatch had been communicated at the time of the arrangement, or if it had been known that the propositions contained in it, and which were at first presented by Mr. Erskine, were the only ones on which he was authorised to make an arrangement, the arrangement would not have been made.”

I suppose, my Lord, that it was impossible to disclaim for the American Government, in more precise and intelligible language than is found in this quotation, all knowledge of Mr. Erskine's instructions, incompatible with a sincere, honourable and justifiable belief, that he was, as he professed to be, fully authorised to make the agreement, in which he undertook to pledge the faith of his Majesty's Government.

Yet, in Mr. Jackson's next letter (of the 23d of October) to Mr. Smith, he says—“I have therefore no hesitation in informing you, that his Majesty was pleased to disavow the agreement, concluded between you and Mr. Erskine, because it was *in violation of that Gentleman's instructions*, and altogether without authority to subscribe to the terms of it. *These instructions*, I now understand by your letter, as well as from the obvious deduction which I took the liberty of making in mine of the 11th instant, were at the time in substance made known to you. No stronger illustration, therefore, can be given of the deviation from them which occurred, than by a reference to the terms of your agreement.”

Your Lordship will allow me to take for granted that this passage cannot be misunderstood. Its direct and evident tendency, is to fasten upon the Government of the United States an imputation most injurious to its honour and veracity. The charge that it had all along been substantially apprised, however it might affect to be ignorant, of the instructions which Mr. Erskine's arrangement was supposed to have violated, had before been insinuated; but it is here openly made in reply, too, to a paper, in which the contrary is formally declared by the official organ of the American Government.

This harsh accusation, enhanced by the tone of the letter in which it appeared, was in all respects as extraordinary as it was offensive. It took the shape of an inference from facts and asseverations, which necessarily led to the opposite conclusion. It was preferred as an answer to a claim of explanation, which Mr. Jackson professed not to be authorised by his Government to offer at all, but which he chose so to offer from himself as to convert explanation into insult. It was advanced not only without proof, and against proof, but against all colour of probability. It could scarcely have been advanced under any conviction that it was necessary to the case which Mr. Jackson was to maintain; for His Majesty's Government had disavowed Mr. Erskine's arrangement, according to Mr. Jackson's own representations, without any reference to the knowledge which this accusation imputed to the Government of the United States; and it need not be stated, that no allusion whatever was made to it by Mr. Secretary Canning, in those informal communications to me which Mr. Jackson has mentioned. It was not, moreover, to have been expected that, in the apparent state of Mr. Jackson's powers, and in the actual posture of his negotiation, he would seek to irritate where he could not arrange, and sharpen disappointment by studied and unprovoked indignity.

The course which the Government of the United States adopted on this painful occasion, was such as at once demonstrated a sincere respect for the public character with which Mr. Jackson was invested, and a due sense of its own dignity. Mr. Jackson's conduct had left a feeble hope that further intercourse with him, unproductive of good as it must be, might still be reconcileable with the honour of the American Government. A fair opportunity was accordingly presented to him of making it so, by Mr. Smith's letter of the 1st of November, of which I beg leave to insert the concluding paragraph.

"I abstain, Sir, from making any particular animadversions on several irrelevant and improper allusions in your letter, not at all comporting with the professed disposition to adjust in an amicable manner the differences unhappily subsisting between the two countries. But it would be improper to conclude the few observations to which I purposely limit myself, without advertent to your repetition of a language implying a knowledge, on the part of this Government, that the instructions of your predecessor did not authorize the arrangement formed by him. After the explicit and peremptory asseveration that this Government had no such knowledge, and that with such knowledge no such arrangement would have been entered into, the view which you have again presented of the subject makes it my duty to apprise you, that such insinuations are inadmissible in the intercourse of a Foreign Minister with a Government that understands what it owes to itself."

Whatever was the sense in which Mr. Jackson had used the expressions to which the American Government took exception, he was now aware of the sense in which they were understood, and consequently was called upon, if he had been misapprehended, to say so. His expressions conveyed an injurious meaning, supported moreover by the context; and the notice taken of them had not exceeded the bounds of just admonition. To have explained away even an imaginary affront would have been no degradation; but when an occasion was thus offered to qualify real and severe imputations upon the Government to which he was accredited, it could scarcely be otherwise than a duty to take immediate advantage of it.

Such, however, was not Mr. Jackson's opinion. He preferred answering the appeal which had been made to him, by reiterating with aggravations the offensive insinuation. He says, in the last paragraph of his letter, of the 4th of November, to Mr. Smith:

"You will find that in my correspondence with you, I have carefully avoided drawing conclusions *that did not necessarily follow from the premises advanced by me*; and least of all should I think of uttering an insinuation *where I was unable to substantiate a fact*. To facts, such as I have become acquainted with them, I have scrupulously adhered. In so doing, I must

continue, whenever the good faith of His Majesty's Government is called in question, to vindicate its honour and dignity in the manner that appears to me best calculated for that purpose."

To this, my Lord, there could be but one reply.—Official intercourse with Mr. Jackson could no longer be productive of any effects that were not rather to be avoided than desired, and it was plainly impossible that it should continue. He was therefore informed by Mr. Smith, in a letter of the 8th of November, which recapitulated the inducements to this unavoidable step, that no further communications would be received from him, that the necessity of this determination would, without delay, be made known to his Government, and that in the mean time a ready attention would be given to any communications, affecting the interests of the two nations, through any other channel that might be substituted.

The President has been pleased to direct that I should make known this necessity to His Majesty's Government, and at the same time, request that Mr. Jackson be recalled:—and I am particularly instructed to do this in a manner, that will leave no doubt of the undiminished desire of the United States, to unite in all the means the best calculated to establish the relations of the two countries on the solid foundations of justice, of friendship, and of mutual interest. I am further particularly instructed, my Lord, to make His Majesty's Government sensible, that, in requiring the recall of Mr. Jackson, the United States wish not to be understood as in any degree obstructing communications, which may lead to a friendly accommodation; but that, on the contrary, they sincerely retain the desire, which they have constantly professed, to facilitate so happy an event, and that nothing will be more agreeable to them than to find the Minister who has rendered himself so justly obnoxious, replaced by another, who, with a different character, may carry with him all the authorities and instructions, requisite for the complete success of his mission; or, if the attainment of this object through my agency should be considered more expeditious or otherwise preferable, that it will be a course entirely satisfactory to the United States.

These instructions, which I lay before your Lordship without disguise, would be injured by any comment.

Before I conclude this letter, it may be proper very shortly to advert to two communications received by Mr. Secretary Smith from Mr. Oakeley, after the correspondence with Mr. Jackson had ceased. The first of these communications (of which I am not able to ascertain the date), requested a document, having the effect of a special passport or safeguard for Mr. Jackson and his family, during their further stay in the United States. This application was regarded as somewhat singular; but the document (of which the necessity was not perceived) was nevertheless furnished. The reasons assigned for the application excited some surprize. I have troubled your Lordship, in conversation, with a few remarks, from my instructions, upon one of those reasons, which I will take the liberty to repeat. The paper in question states, that Mr. Jackson had "already been once most grossly insulted by the inhabitants of Hampton, in the unprovoked language of abuse held by them to several officers bearing the King's uniform, when those officers were themselves violently assaulted and put in imminent danger."

I am given to understand, my Lord, that the insult, here alluded to, was for the first time brought under the notice of the American Government by this paper; that it had, indeed, been among the rumours of the day that some unbecoming scene had taken place at Norfolk, or Hampton, between some officers belonging to the *Africaine* Frigate and some of the inhabitants, and that it took its rise in the indiscretion of the former; that no attention to the circumstance having been called for, and no inquiry having been made, the truth of the case is unknown; but that it was never supposed that Mr. Jackson himself, who was on board the Frigate, had been personally insulted, nor is it yet understood in what way he supposes that he was so. I am authorized to add, that any complaint or representation on the subject would instantly have received every proper attention.

The other communication (of which the substance was soon afterwards published to the American people, in the form of a circular letter from Mr. Jackson to the British Consuls in the United States) seems to have been intended as a justification of his conduct, in that part of his correspondence which had given umbrage to the American Government. This paper (bearing date the 13th of November) is not very explicit; but it would appear to be calculated to give rather a new form to the statements, which Mr. Jackson had suffered the Government of the United States to view in another light, until it had no choice but to act upon the obvious and natural interpretation of them, sanctioned by himself.

It was never objected to Mr. Jackson (as this paper seems to suggest) that he had stated, that the three propositions in Mr. Erskine's original instructions were submitted to Mr. Smith by that gentleman, or that he had stated it as made known to him by Mr. Canning, that the instruction to Mr. Erskine, containing those three conditions, was the only one, from which his authority was derived for the conclusion of an arrangement on the matter to which it related. The objection was, that he ascribed to the American Government a knowledge, that the propositions, submitted to its consideration by Mr. Erskine, were indispensable conditions.

I willingly leave your Lordship to judge, whether Mr. Jackson's correspondence will bear any other construction than it in fact received, and whether, supposing it to have been erroneously construed, his letter of the 4th of November should not have corrected the mistake, instead of confirming and establishing it.

Additional
Paragraph
received 22d
January.

As an *explanation*, this paper was even worse than nothing. It had not the appearance of an attempt to rectify misapprehension. It sought to put the American Government in the wrong, by assuming that what had given so much umbrage, ought not to have given any; it imported reproach rather than explanation. It kept out of sight the real offence; and introducing a new and insufficient one in its place, seemed to disclose no other wish than to withdraw from the Government of the United States the ground upon which it had proceeded. Its apparent purpose, in a word, was to fix a charge of injustice upon the *past*, not to produce a beneficial effect upon the *future*. In this view, and in this only, it was perfectly consistent that it should announce Mr. Jackson's determination to retire to New York.

The time when the paper was presented will not have escaped your Lordship's observation. It followed the demand already mentioned of a safe-guard for "Mr. Jackson, his family, and the gentleman attached to his mission." A demand which cannot be regarded, especially if we look to the inducements to which it was referred, as either conciliatory or respectful. It followed too the letter of the 4th of November, which, had explanation been intended, ought undoubtedly to have contained it, but which in lieu of it contained fresh matter of provocation. It was itself followed by the publication of its own substance in another garb. On the very day of its date (when Mr. Jackson, if he meant it as an explanation, could not be justified in concluding that it would not be satisfactory) it was moulded by him into the circular address, to which I have before alluded, and immediate steps appear to have been taken to give to it in that shape the utmost publicity. I have no wish, My Lord, to make any strong remarks upon that proceeding. It will be admitted that it was a great irregularity; and that, if Mr. Jackson had been particularly anxious to close every avenue to reconciliation between the American Government and himself, he could not have fallen upon a better expedient.

I have the honour to be, &c.
(Signed)

W. PINKNEY.

The Marquess Wellesley.
&c. &c. &c.

No. 2.

Mr. Pinkney to the Marquess Wellesley.

MY LORD,

Great Cumberland Place, February 15, 1810.

IN pursuance of the intimation which I had the honour to give to your Lordship a few days ago, I beg to trouble your Lordship with an inquiry,—whether any, and if any, what blockades of France, instituted by Great Britain during the present war, before the 1st day of January 1807, are understood by His Majesty's Government to be in force?

I am not able at present to specify more than one of the blockades to which this inquiry applies, namely, that from the Elbe to Brest, declared in May, 1806, and afterwards limited and modified; but I shall be much obliged to your Lordship for precise information relative to the whole.

I have the honour to be, &c.

(Signed)

WM. PINKNEY.

*The Marquess Wellesley,
&c. &c. &c.*

No. 3.

The Marquess Wellesley to Mr. Pinkney.

SIR,

Foreign Office, March 2d 1810.

I HAVE the honour to acknowledge the receipt of your letter of the fifteenth ultimo, wherein you request to be informed whether any, and if any, what blockades of France instituted by Great Britain during the present war, before the 1st day of January, 1807, are understood by His Majesty's Government to be in force? I have now the honour to acquaint you, that the coast, rivers and ports from the river Elbe to Brest, both inclusive, were notified to be under the restrictions of blockade, with certain modifications, on the 16th of May, 1806; and that these restrictions were afterwards comprehended in the Order in Council of the 7th of January, 1807, which order is still in force.

I have the honour to be, &c.

(Signed)

WELLESLEY.

Wm. Pinkney, Esq.

No. 4.

Mr. Pinkney to Marquess Wellesley.

MY LORD,

Great Cumberland Place, March 7, 1810.

I HAVE had the honour to receive your Lordship's answer of the 2d instant, to my letter of the 15th of last month, concerning the blockades of France, instituted by Great Britain, during the present war, before the first day of January, 1807.

I infer from that answer, that the Blockade notified by Great Britain in May 1806, from the Elbe to Brest, is not itself in force, and that the restrictions which it established, rest altogether, so far as such restrictions exist at this time, upon an Order or Orders in Council issued since the first day of January 1807.

I infer also, either that no other Blockade of France was instituted by Great Britain during the period above mentioned, or that, if any other was instituted during that period, it is not now in force.

May I beg your Lordship to do me the honour to inform me whether these inferences are correct, and, if incorrect, in what respects they are so?

I have the honour to be, &c.

(Signed)

W. PINKNEY.

The Marquess Wellesley,
 &c. &c. &c.

No. 5.

The Marquess Wellesley to Mr. Pinkney.

SIR,

Foreign Office, March 14, 1812.

THE letter which I had the honour to receive from you, under date 2d January, together with the additional paragraph received on the 22d January, has been laid before the King.

The several conferences which I have held with you respecting the transactions to which your letter refers, have, I trust, satisfied you, that it is the sincere desire of His Majesty's Government, on the present occasion, to avoid any discussion, which might obstruct the renewal of amicable intercourse between the two countries.

The correspondence between Mr. Jackson and Mr. Smith, has been submitted to His Majesty's consideration.

His Majesty has commanded me to express His concern, that the official communication between His Majesty's Minister in America, and the Government of the United States, should have been interrupted before it was possible for His Majesty, by any interposition of His authority, to manifest His invariable disposition to maintain the relations of amity with the United States.

I am commanded by His Majesty to inform you, that I have received from Mr. Jackson, the most positive assurances, that it was not his purpose to give offence to the Government of the United States, by any expression contained in his letters, or by any part of his conduct.

The expressions and conduct of His Majesty's Minister in America, having however, appeared to the Government of the United States to be exceptionable, the usual course in such cases would have been to convey, in the first instance, to His Majesty, a formal complaint against His Minister, and to desire such redress as might be deemed suitable to the nature of the alledged offence.

This course of proceeding would have enabled His Majesty to have made such arrangements, or to have offered such seasonable explanations as might have precluded the inconvenience, which must always arise from the suspension of official communication between friendly powers.

His Majesty, however, is always disposed to pay the utmost attention to the wishes and sentiments of States in amity with Him; and, He has, therefore, been pleased to direct the return of Mr. Jackson to England.

But His Majesty has not marked with any expression of His displeasure, the conduct of Mr. Jackson, whose integrity, zeal, and ability, have long been

distinguished in His Majesty's service; and who does not appear on the present occasion to have committed any intentional offence against the Government of the United States.

I am commanded to inform you, that Mr. Jackson is ordered to deliver over the charge of His Majesty's affairs in America, to a person properly qualified to carry on the ordinary intercourse between the two Governments, which His Majesty is sincerely desirous of cultivating on the most friendly terms.

As an additional testimony of this disposition, I am authorized to assure you, that His Majesty is ready to receive, with sentiments of undiminished amity and good-will, any communication which the Government of the United States may deem beneficial to the mutual interests of both countries, through any channel of negotiation, which may appear advantageous to that Government.

I request, &c.

(Signed)

WELLESLEY.

W. Pinkney, Esq.

No. 6.

Mr. Pinkney to the Marquess Wellesley,

MY LORD,

Great Cumberland Place, March 17, 1810.

I HAVE had the honour to receive your Lordship's letter of the 14th instant, in reply to mine of the 2d of January, and will lose no time in transmitting it to my Government.

I have the honour to be, &c.

(Signed)

WM. PINKNEY.

*The Marquess Wellesley,
&c. &c. &c.*

No. 7.

The Marquess Wellesley to Mr. Pinkney.

SIR,

Foreign Office, March 26, 1810.

I HAVE the honour to acknowledge the receipt of your letter of the 7th instant, requesting a further explanation of my letter of the 2d, concerning the blockades of France, instituted by Great Britain during the present war, before the 1st day of January 1807.

The blockade, notified by Great Britain in May 1806, has never been formally withdrawn. It cannot, therefore, be accurately stated, that the restrictions which it established, rest altogether on the Order in Council of the 7th of January 1807: they are comprehended under the more extensive restrictions of that Order. No other blockade of the ports of France, or of ports in the occupation of France, was instituted by Great Britain, between the 16th of

May 1806, and the 7th of January 1807, excepting the blockade of Venice, instituted on the 27th of July 1806, which is still in force.

I beg you to accept the assurances, &c.

(Signed)

WELLESLEY.

W. Pinkney, Esq.

No. 8.

Mr. Pinkney to the Marquess Wellesley,

MY LORD,

Great Cumberland Place, April 30, 1810.

THE French Minister for Foreign Affairs has stated, in an official note to General Armstrong, the Minister Plenipotentiary of the United States at Paris, that "the only condition required for the revocation by the French Government of the Decree of Berlin, will be the previous revocation by the British Government of her blockades of France, or part of France, (such as that from the Elbe to Brest, &c.) of a date anterior to the date of the aforesaid Decree."

I had supposed that the blockades of France, instituted by Great Britain before the date of the Berlin Decree, were already withdrawn virtually, though not formally, by reason of the restrictions which they established having been provided for, and comprehended in certain Orders in Council issued after the date of that Decree; and your Lordship's letter to me of the 26th of last month, certainly seems to confirm that supposition with regard to the blockade of May 1806, although it proves it to be erroneous with regard to the only other blockade which falls within the description of the French Minister's communication, namely, the blockade of Venice, established in July of the same year.

-As I am anxious to neglect nothing which may have a tendency to produce the repeal of the Berlin Decree, and of such other Decrees and Orders as the Government of the United States has from time to time complained of, I beg to inquire of your Lordship, with a view to the terms of the above-mentioned note to General Armstrong, whether there exists any objection on the part of His Majesty's Government to a revocation (or to a declaration that they are no longer in force) of the blockades in question, especially that of May 1806.

I have the honour to be, &c.

(Signed)

WM. PINKNEY,

*The Marquess Wellesley,
&c. &c. &c.*

No. 9.

Mr. Pinkney to the Marquess Wellesley,

MY LORD,

Great Cumberland Place, August 25th, 1810.

I HAVE the honour to state to your Lordship, that I have received from General Armstrong, Minister Plenipotentiary of the United States at Paris, a letter bearing date the 6th instant, in which he informs me that the Government of France has revoked the decrees of Berlin and Milan, and that he has re-

received a written and official notice of that fact in the following words: "Je suis autorisé à vous déclarer, Monsieur, que les décrets de Berlin et de Milan sont révoqués, et, qu'à dater du 1er. Novembre, ils cesseront d'avoir leur effet."

I take for granted that the revocation of the British Orders in Council of January and November 1807, and April 1809, and of all other orders, dependent upon, analogous to, or in execution of them, will follow of course; and I shall hope to be enabled by your Lordship, with as little delay as possible, to announce to my Government that such revocation has taken place.

I have the honour to be, &c.

(Signed)

WM. PINKNEY.

The Marquess Wellesley,
&c. &c. &c.

No. 10.

The Marquess Wellesley to Mr. Pinkney.

SIR,

Foreign Office, August 31, 1810.

I HAVE the honour to acknowledge the receipt of your letter under date the 25th instant.

On the 23d of February 1808, His Majesty's Minister in America, declared to the Government of the United States—"His Majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and His readiness to abandon the system which had been forced upon Him, whenever the enemy should retract the principles which had rendered it necessary."

I am commanded by His Majesty to repeat that declaration, and to assure you, that whenever the repeal of the French Decrees shall have actually taken effect, and the commerce of neutral nations shall have been restored to the condition in which it stood previously to the promulgation of those Decrees, His Majesty will feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled Him to adopt.

I have the honour to be, &c.

(Signed)

WELLESLEY.

William Pinkney, Esq.

No. 11.

Mr. Pinkney to the Marquess Wellesley.

MY LORD,

Great Cumberland Place, September 21, 1810.

ON the 30th of April last, I had the honour to address a note to your Lordship, in which, upon the inducements which it stated, I took the liberty to inquire, whether there was any objection, on the part of His Majesty's Government, to a revocation, or to a declaration that they were no longer in force, of the British blockades of France of a date anterior to the Berlin Decree.

In a second note of the 23d of June, I had the honour to recall your Lordship's attention to that inquiry, and to add, that my Government expected from me a communication upon it. And on the 8th of August, it was again brought to your Lordship's recollection in the same mode. It was moreover mentioned in several conversations after the delivery of my first note, which had, in fact, been preceded by verbal explanations on my part, as well as by an abortive correspondence in writing, to which some of those explanations were preparatory.

If I had been so fortunate as to obtain for my hitherto unanswered inquiry, the notice which I had flattered myself it might receive, and to which I certainly thought it was recommended by the plainest considerations of policy and justice, it would not perhaps have been necessary for me to trouble your Lordship with this letter, the purpose of which is, in very few words, to remind His Majesty's Government, in pursuance of my instructions, of the sentiments and expectations of the Government of the United States, respecting such British blockades as that which my inquiry principally regarded.

Those sentiments and expectations are so well explained in two letters from Mr. Secretary Madison, of the 27th of October 1803, to Mr. Thornton, and of the 3d of June 1806, to Mr. Merry, that very little more is required, in the execution of my instructions on this occasion, than that I should refer your Lordship to the copies of those letters which are herewith transmitted.

Your Lordship will perceive, that the strong and conclusive objections, in law and reason, to be found in those papers, (especially in the first, which was occasioned by a communication from the British Consul at New York, of a notice from Commodore Hood, of July 1803, that the islands of Martinique and Guadaloupe were, and for some time had been blockaded, apply to several blockades which Great Britain has lately pretended to establish; but in a particular manner to that of May 1806, (from the Elbe to Brest inclusive); to that in the spring of 1808, of the whole island of Zealand, and to that in March 1809, of the isles of Mauritius and Bourbon.

The Government of the United States can discover no just foundation for these and other similar attempts to blockade entire coasts, by notifications with which the fact has no correspondence. It views them as unwarrantable prohibitions of intercourse, rather than regular blockades; and as resembling, in all their essential qualities, the extraordinary Decrees and Orders, which, for the last four years, have nearly obliterated every trace of the public law of the world, and discouraged, by menaces of hostile interruption, and pursued with seizure and confiscation, the fairest and most innocent trade of neutral merchants.

It may now be hoped that those Decrees and Orders are about to disappear for ever; and I think I may presume, that, as my Government expects, no blockade like that of May 1806, will survive them.

Your Lordship has informed me, in a recent note, that it is "His Majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity." And I cannot suppose that this freedom is understood to be consistent with vast constructive blockades, which may be so expanded at pleasure as, without the aid of any new device, to oppress and annihilate every trade but that which England thinks fit to licence. It is not, I am sure, to *such* freedom that your Lordship can be thought to allude. I am the more inclined to be confident on this point, because I have now before me a well known official exposition, conceived in terms the most exact, of the British doctrine of blockade as it stood in 1804, contained in the reply of Mr. Merry, His Majesty's Minister in America, to the very able remonstrance above-mentioned, from Mr. Madison to Mr. Thornton.

In that reply, (of the 12th of April 1804) it is formally announced to the Government of the United States, "by His Majesty's command, signified to Mr. Merry, by the Principal Secretary of State for Foreign Affairs," that for "redressing the grievance complained of" by the American Government, orders had been sent to Commodore Hood (and the necessary directions given

to the Vice-Admiralty courts in the West Indies and America) "not to consider any blockade of the Islands of Martinique and Guadaloupe as existing, unless in respect of particular ports which might be actually invested; and then not to capture vessels bound to such ports, unless they should previously have been warned not to enter them."

It is natural to conclude that, though the "grievance," which this frank communication condemns, has been since so often repeated, as almost to make us lose sight of the rule in the multitude of its violations, your Lordship could not speak of the restoration of the just freedom of commerce as an event desired by Great Britain, without some reference to the neglected doctrine of this paper, and without some idea of reviving it.

With regard to the blockade of May 1806, I regret that I have failed to obtain an admission, apparently warranted by facts and invited by circumstances, that it is not in force.

Your Lordship's answers to my letters of the 15th of February, and 7th of March last, appear to justify the opinion, that this blockade sunk into the Orders in Council of 1807, with which it was perfectly congenial. It can scarcely be said that, since the promulgation of those orders, there has been even a show of maintaining it, as an actual blockade, by a stationary force, adequate or inadequate, distributed with that view along the immense line of coast which it affected to embrace. And, if it has not been constantly so maintained, nor even attempted to be maintained, as an actual blockade, but has yielded its functions since 1807, to Orders in Council, neither being nor professing to be actual blockades, it may, I imagine, be very safely asserted that it exists no longer. But as this conclusion has not been adopted, but has rather been resisted by your Lordship, it is my duty, in transmitting the enclosed copy of an act of congress of the United States, passed on the 1st of May 1810, entitled "An act concerning the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," to state to your Lordship that an annulment of the blockade of May 1806, is considered by the President to be as indispensable, in the view of that act, as the revocation of the British Orders in Council.

I have the honour to be, &c.

(Signed)

WM. PINKNEY.

The Marquess Wellesley,

&c. &c. &c.

(First Inclosure, referred to in No. 11.)

Mr. Madison to Mr. Thornton.

SIR,

Department of State, Oct 27, 1803.

THE letters of which copies are inclosed, were received last evening. One of them is from the British Consul General at New York, the other a copy inclosed therein, of a letter to him from Commodore Hood, Commander-in-Chief of His Britannic Majesty's ships of war on a West India Station. The latter bears date the 25th of July last, and requests that the American Government and Agents of neutral nations might be made acquainted, that the Islands of Martinique and Guadaloupe are, and have been blockaded from the 17th of June preceding, by detachments from the squadron under his command, in order that there may be no plea for attempting to enter the ports of those Islands.

It will without doubt occur to you, Sir, that such a communication would have been more properly made through another channel, than directly from the Consulate at New York. The importance and urgency of the subject, however, supercede the consideration of forms, and I lose no time in communicating to you the observations which the President deems it to require.

It will not escape your attention, that Commodore Hood's letter is dated

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no less than three months before it could have the effect of a notification, and that besides this remarkable delay, the alledged blockade is computed from a date more than one month prior to that of the letter itself. But these circumstances, however important they may be, do not constitute the main objection to the proceeding of the British Commander. His letter, instead of stating that a particular port or ports were blockaded, by a force actually before them, declares, generally, two entire and considerable Islands to be in a state of blockade. It can never be admitted that the trade of a neutral nation, in articles not contraband, can be legally obstructed to any place, not actually blockaded, or that any notification or proclamation can be of force, unless accompanied with an actual blockade. The law of nations is, perhaps, more clear on no other point than on that of a siege or blockade, such as will justify a belligerent nation in restraining the trade of neutrals. Every term used in defining the case imports the presence and position of a force, rendering access to the prohibited place manifestly difficult and dangerous. Every jurist of reputation, who treats with precision on this branch of the law of nations, refers to an actual and particular blockade. Not a single treaty can be found which undertakes to define a blockade, in which the definition does not exclude a general or nominal blockade, by limiting it to the case of a sufficient force, so disposed as to amount to an actual and particular blockade. To a number of such treaties Great Britain is a party. Not to multiply references on the subject, I confine myself to the 4th article of the convention of June 1801, between Great Britain and Russia, which, having been entered into for the avowed purpose "of settling an invariable determination of their principles upon the rights of neutrality," must necessarily be considered as a solemn recognition of an existing and general principle and right, not as a stipulation of any new principle or right limited to the parties themselves. The article is in the words following: "That in order to determine what characterises a blockaded port, that denomination is given only to a port where there is, by the dispositions of the power which attacks it with ships stationary or sufficiently near, an evident danger in entering." It cannot be necessary to dwell on the inconsistency of the kind of blockade, declared by Commodore Hood, with the principle laid down concerning the rights of neutrality; or on the consequences of the principle on which a blockade of whole Islands by a few ships is founded, to the commerce and interests of neutral nations. If the Islands of Martinique and Guadaloupe, the latter more than 250 and the former nearly 150 miles in circumference, and each containing a variety of ports, can be blockaded by detachments from a Commodore's squadron, it is evident that a very inconsiderable portion of the British fleet may blockade all the maritime countries with which she is at war. In a word, such a principle completely sacrifices the rights of neutral commerce to the pleasure or the policy of the parties at war. But it deserves to be particularly remarked, that a power to proclaim general blockades, or any blockade not formed by the real presence of a sufficient force, to be exercised by Officers at a distance from the control of their Government, and deeply interested in enlarging the field of captures which they are to share, offers a temptation that must often aggravate the evils incident to the principle itself. You will infer, Sir, from these observations the serious light in which the President regards the proceeding which is the subject of them; and will perceive the grounds on which the injuries accruing from it to our commerce will constitute just claims of indemnification from the British Government. To diminish the extent of these injuries as much as possible, and to guard the good understanding and friendly relations of every sort, which are so desirable to both nations, against the tendency of such measures, will, I venture to assure myself, be sufficient motives with you to employ the interpositions with Commodore Hood, which you may judge best adapted to the nature of the case.

I have the honour to be, &c.

(Signed)

JAMES MADISON.

Edward Thornton, Esq.

&c. &c. &c.

(Second Inclosure, referred to in No. 11.)

Mr. Madison to Mr. Merry.

SIR,

Department of State, June 3, 1806.

HAVING transmitted to the President your letter of the 22d ultimo, communicating the resolution of your Government to establish a blockade of the rivers Ems, Weser, Elbe and Trave, I have the honour now, in pursuance of his sentiments, to observe, that as a blockade essentially implies a force on the spot for the purpose, and as the notification required in the case must be a warning to neutral traders of the fact that a blockade exists, the communication which your Government has been pleased to make derives its title to the acknowledgements of the United States from the supposition that it was meant as a friendly premonition, which, though imposing of itself no legal restraint on neutrals, nor inducing any penal consequences, might usefully influence the course of their mercantile expeditions. In this sense the communication is received by the President as a mark of that friendly attention which ought in all cases to be reciprocally maintained; and in this sense he is the more disposed to regard the communication, as a different one would contradict the definitions of a blockade, and of the requisite notification thereof, contained in the Orders of your Government to Commodore Hood and the Judges of the Vice-Admiralty Courts, as communicated in your letter of April 12, 1804.

I have the honour to be, &c.

(Signed)

JAMES MADISON.

Anthony Merry, Esq.

&c. &c. &c.

(Third Inclosure, referred to in No. 11.)

An act concerning the commercial intercourse between the United States of America and Great Britain and France and their dependencies, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, that from and after the passage of this act, no British or French armed vessel shall be permitted to enter the harbours or waters under the jurisdiction of the United States; but every British and French armed vessel is hereby interdicted, except when they shall be forced in by distress, by the dangers of the sea, or when charged with dispatches on business from their Government, or coming as a public packet for the conveyance of letters; in which cases as well as in all others, when they shall be permitted to enter, the commanding officer shall immediately report his vessel to the collector of the district, stating the object or causes of his entering the harbours or waters of the United States; and shall take such position therein as shall be assigned him by such collector, and shall conform himself, his vessel and crew, to such regulations respecting health, repairs, supplies, stay, intercourse and departure, as shall be signified to him by the said collector, under the authority and directions of the President of the United States; and not conforming thereto, shall be required to depart from the United States.

Sect. 2. And be it further enacted, that all pacific intercourse with any interdicted foreign armed vessel, the officers or crew thereof, is hereby forbidden, and if any person shall afford any aid to such armed vessel, either in repairing her, or in furnishing her, her officers or crew with supplies of any

kind or in any manner whatsoever, or if any pilot shall assist in navigating the said armed vessel, contrary to this prohibition, unless for the purpose of carrying her beyond the limits and jurisdiction of the United States, the person or persons so offending, shall be liable to be bound to their good behaviour, and shall moreover forfeit and pay a sum not exceeding two thousand dollars, to be recovered upon indictment or information, in any court of competent jurisdiction; one moiety thereof to the treasury of the United States, and the other moiety to the person who shall give information and prosecute the same to effect: provided, that if the prosecution shall be by a public officer the whole forfeiture shall accrue to the treasury of the United States.

Sect. 3. And be it further enacted, that all the penalties and forfeitures which may have been incurred under the act, entitled "An Act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," last mentioned, and also all the penalties and forfeitures which may have been incurred under the act laying an embargo on all ships and vessels in the ports and harbours of the United States, or under any of the several acts supplementary thereto, or to enforce the same, or under the acts to interdict the commercial intercourse between the United States and Great Britain and France and for other purposes, shall be recovered and distributed, and may be remitted in the manner provided by the said acts respectively, and in like manner as if the said acts had continued in full force and effect.

Sect. 4. And be it further enacted, that in case either Great Britain or France shall, before the 3d day of March next, so revoke or modify her edicts as that they shall cease to violate the neutral commerce of the United States, which fact the President of the United States shall declare by proclamation, and if the other nation shall not within three months thereafter so revoke or modify her edicts in like manner, then the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eighteenth sections of the act, entitled "An Act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," shall from and after the expiration of three months from the date of the proclamation aforesaid, be revived and have full force and effect, so far as relates to the dominions, colonies, and dependencies, and to the articles the growth, produce or manufacture of the dominions, colonies, and dependencies of the nation thus refusing or neglecting to revoke or modify her edicts in the manner aforesaid. And the restrictions imposed by this act shall, from the date of such proclamation, cease and discontinue in relation to the nation revoking or modifying her Decrees in the manner aforesaid.

J. B. VARNUM,
Speaker of the House of Representatives.

JOHN GAILLARD,
President of the Senate, *pro tempore*.

May 1st, 1810, approved.

JAMES MADISON.

No. 12.

Mr. Pinkney to the Marquess Wellesley.

MY LORD,

Great Cumberland-Place, Nov. 3, 1810.

IN my note of the 25th of August I had the honour to state to your Lordship that I had received from the Minister Plenipotentiary of the United States at Paris a letter, dated the 6th of that month, in which he informed me that he had received from the French Government a written and official notice that it had revoked the Decrees of Berlin and Milan, and that after the 1st of November those Decrees would cease to have any effect; and I expressed my confidence that the revocation of the British Orders in Council of January and November 1807 and April 1809, and of all other orders dependent upon, analogous to, or in execution of them, would follow of course.

Your Lordship's reply of the 31st of August, to that note, repeated a Declaration of the British Minister in America, made, as it appears, to the Government of the United States, in February 1805, of "His Majesty's earnest desire to see the commerce of the world restored to that freedom which is necessary for its prosperity, and His readiness to abandon the system which had been forced upon Him whenever the enemy should retract the principles which had rendered it necessary," and added an official assurance that "whenever the repeal of the French Decrees should have actually taken effect; and the commerce of neutral nations should have been restored to the condition in which it stood previously to the promulgation of those Decrees, His Majesty would feel the highest satisfaction in relinquishing a system which the conduct of the enemy compelled Him to adopt."

Without departing in any degree from my first opinion, that the United States had a right to expect, upon every principle of justice, that the prospective revocation of the French Decrees would be immediately followed by at least a like revocation of the Orders of England; I must remind your Lordship, that the day has now passed when the repeal of the Berlin and Milan edicts, as communicated to your Lordship in the note abovementioned, and published to the whole world by the Government of France, in the *Moniteur* of the 9th of August, was, by the terms of it, to take effect. That it has taken effect cannot be doubted; and it can as little be questioned, that, according to the repeated pledges given by the British Government on this point, (to say nothing of various other powerful considerations,) the prompt relinquishment of the system, to which your Lordship's reply to my note of the 25th of August alludes, is indispensable.

I need scarcely mention how important it is to the trade of the United States that the Government of Great Britain should lose no time in disclosing with frankness and precision its intentions on this head. Intelligence of the French repeal has reached America; and commercial expeditions have doubtless been founded upon it. It will have been taken for granted that the British obstructions to those expeditions having thus lost the support, which, however insufficient in itself, was the only one that could ever be claimed for them, have been withdrawn; and that the seas are once more restored to the dominion of law and justice.

I persuade myself that this confidence will be substantially justified by the event, and that to the speedy recall of such Orders in Council as were subsequent in date to the Decrees of France, will be added the annulment of the antecedent Order, to which my late letter, respecting blockades, particularly relates. But if, notwithstanding the circumstances which invite to such a course, the British Government shall have determined not to remove these obstructions with all practicable promptitude, I trust that my Government will be apprised, with as little delay as possible, of a determination so unexpected, and of such vital concern to its rights and interests, and that the reasons

upon which that determination may have been formed will not be withheld from it.

I have the honour to be, &c.

(Signed)

WM. PINKNEY.

The Marquess Wellesley,
&c. &c. &c.

No. 13.

The Marquess Wellesley to Mr. Pinkney.

SIR,

Foreign Office, December 4, 1810.

AFTER the most accurate inquiry I have not been able to obtain any authentic intelligence of the actual repeal of the French Décrees, to which your notes of the 25th of August, and 3d of November refer, or of the restoration of the commerce of neutral nations to the condition in which it stood previously to the promulgation of those decrees.

If you should be in possession of any such information, I should be happy to receive it from you, and for that purpose I request to have the honour of a conference with you at this Office to-morrow, at two o'clock.

I have the honour to be, &c.

(Signed)

WELLESLEY.

William Pinkney, Esq.

No. 14.

The Marquess Wellesley to Mr. Pinkney.

SIR,

Foreign Office, December 6th, 1810.

THE importance of the verbal communication which I had the honour of receiving from you yesterday, induces me to request that you will have the goodness to commit the substance of it to writing, at the earliest time which may suit your convenience.

As soon as I shall have received such a written statement from you, I shall be anxious to return an official reply in the same form.

Under these circumstances, perhaps it may be unnecessary that you should take the trouble of calling at this Office to-morrow.

If, however, you should be desirous of seeing me, I shall be ready to have the honour of receiving you between two and three o'clock.

I have the honour to be, &c.

(Signed)

WELLESLEY.

W. Pinkney, Esq.

No. 15.

*Mr. Pinkney to the Marquess Wellesley.*MY LORD, *Great Cumberland-Place, December 10, 1810.*

IN compliance with the request contained in your note of the 6th instant, I proceed to recapitulate in this letter (with some variations, however,) the statements and remarks which I had the honour to make, in our conference of the 5th, respecting the revocation of the French Decrees, as connected with a change of system here on the subject of neutral rights.

Your Lordship need not be told that I should have been happy to offer, at a much earlier moment, every explanation in my power on matters of such high concern to the rights and commerce of my country, and the future character of its foreign relations, if I had been made to understand that explanation was desired.

My written communications of August and November were concise, but they were not intended to be insufficient. They furnished evidence which I thought conclusive, and abstained from laboured commentary, because I deemed it superfluous. I had taken up an opinion, which I abandoned reluctantly and late, that the British Government would be eager to follow the example of France in recalling, as it had professed to do in promulgating, that extraordinary system of maritime annoyance which, in 1807, presented to neutral trade, in almost all its directions, the hopeless alternative of inactivity or confiscation; which considered it as a subject to be regulated, like the trade of the United Kingdoms, by the statutes of the British Parliament; and undertook to bend and fashion it, by every variety of expedient, to all the purposes, and even the caprices of Great Britain. I had no idea that the remnant of that system, productive of no conceivable advantage to England, and deservedly odious, for its theory and destructive effects to others, could survive the public declaration of France, that the edicts of Berlin and Milan were revoked. Instructed at length, however, by your Lordship's continued silence, and alarmed for the property of my fellow-citizens, now more than ever exposed, by an erroneous confidence, to the ruinous operation of the British Orders, I was preparing to support my general representations, by detailed remonstrance, when I received the honour of your note of the 4th instant. In the conference which ensued I troubled your Lordship with a verbal communication, of which the following is nearly the substance.

The doubts which appear to stand in the way of the recall of the British Orders in Council, (under which denomination I include certain orders of blockade of a kindred principle and spirit) must refer to the *manner*, or the *terms*, or the *practical effect* of the alledged repeal of the Decrees of France.

That the *manner* of the proceeding is satisfactory to the British Government cannot be questioned; since it is precisely that in which its own numerous orders for establishing, modifying, or removing blockades, and other maritime obstructions, are usually proclaimed to neutral states and merchants.

The French repeal was officially notified on the 5th of August, to the Minister Plenipotentiary of the United States at Paris, by the French Minister for Foreign Affairs, as I had the honour to inform your Lordship in my letter of the 25th of the same month, which not only gave the import, but (as the inclosed copy will show) adopted the words of General Armstrong's statement to me of the tenor and effect of that notice.

On the 9th of August, the notification to General Armstrong was published in the *Moniteur*, the official journal of the French Government, as the act of that Government: and thus became a formal declaration, and a public pledge to all who had an interest in the matter of it.

It would be a waste of time to particularize the numerous instances of analogous practice in England by which this course is countenanced; but a recent

example happens to be before me, and may therefore be mentioned. The partial recall, or modification of the English blockade of the ports and places of Spain from Gijon to the French territory, (itself known to my Government only through a circular notification to me, recited afterwards in the London Gazette,) was declared to the American and other Governments in exactly the same mode.

I think it demonstrable that the *terms* in which the French revocation was announced are just as free from well-founded objection as the *manner*.

Your Lordship's view of them is entirely unknown to me; but I am not ignorant that there are those in this country, who, professing to have examined them with care, and having certainly examined them with jealousy, maintain that the revocation, on the 1st of November, was made to depend, by the obvious meaning of those terms, upon a condition precedent which has not been fulfilled, namely—the revocation by Great Britain of her Orders in Council, including such blockading orders as France complains of as illegal.

If this were even admitted to be so, I am yet to learn upon what grounds of justice the British Government could decline to meet, by a similar act on its part, an advance, thus made to it by its adversary in the face of the world, towards a co-operation in the great work of restoring the liberty of the ocean; so far, at least, as respects the Orders in Council of 1807 and 1809, and such blockades as resemble them. It is not necessary, however, to take this view of the question; for the French revocation turns on no condition precedent, is absolute, precise, and unequivocal.

What construction of the document, which declares that revocation, might be made by determined suspicion and distrust, I have no wish, and am not bound to inquire. Such interpreters would not be satisfied by any form of words, and would be likely to draw the same conclusion from perfect explicitness and studied obscurity. It is enough for me that the fair, and natural, and necessary import of the paper affords no colour for the interpretation I am about to examine.

The French declaration, “that the Decrees of Berlin and Milan are revoked, and that from the 1st of November they will cease to have any effect,” is precision itself. But they are followed by these words: “*bien entendu qu'en consequence de cette declaration les Anglois revoqueront leurs Arrêts du Conseil, et renonceront aux nouveaux principes de blocus qu'ils ont voulu etablir, ou bien que les Etats Unis, conformément à l'acte que vous venez de communiquer feront respecter leurs droits par les Anglois.*”

If these words state any condition, they state *two*, the first depending upon Great Britain, the last upon the United States; and as they are put in the disjunctive, it would be extravagant to hold that the non-performance of one of them is equivalent to the non-performance of both. I shall take for granted, therefore, that the argument against my construction of the Duke of Cadore's letter must be moulded into a new form. It must deal with two conditions instead of one, and, considering them equally as conditions precedent to be performed (disjunctively) before the day limited for the operative commencement of the French repeal, must maintain that if *neither* of them should be performed before that day, the Decrees were not to be revoked, and consequently that, as neither of them has been so performed, the Decrees are still in force.

If this hypothesis of previous conditions, thus reduced to the only shape it can assume, be proved to be unsound, my construction is at once established, since it is only upon that hypothesis that any doubt can be raised against the exact and perspicuous assurance that the Decrees were actually repealed, and that the repeal would become effectual on the 1st of November. This hypothesis is proved to be unsound by the following considerations.

It has clearly no foundation in the phraseology of the paper, which does not contain a syllable to put any condition before the repeal. The repeal is represented as a step already taken, to have effect on a day specified. Certain consequences are, indeed, declared to be expected from this proceeding; but

no day is given, either expressly or by implication, within which they are to happen. It is not said, "*bien entendu que les Anglois auront revoques,*" &c. but "*que les Anglois revoqueront,*" &c. indefinitely as to time.

The notion of conditions precedent is, therefore, to say the least of it, perfectly gratuitous. But it is also absurd. It drives us to the conclusion, that a palpable and notorious impossibility was intended to be prescribed as a condition, in a paper which they who think it was meant to deceive, must admit was meant to be plausible.

It was a palpable and notorious impossibility that the United States should, before the 1st of November, execute any condition, no matter what the nature of it, the performance of which was to follow the ascertained failure of a condition to be executed by Great Britain, *at any time before the same 1st of November*. That the act expected from the United States was to be consequent upon the failure of the other, is apparent. It is also apparent, that upon any interpretation which would make the act required of Great Britain a condition precedent to the French repeal, and consequently, precedent to the 1st of November, (when the repeal was, if ever, to take effect,) that condition could not be said to have failed before the whole period, from the 5th of August to the 1st of November, had elapsed. But if Great Britain had the whole time within which to elect the course which she would pursue, what opportunity would be left to the United States (equally bound, upon this idea of conditions precedent, to act their part within the same period,) to become acquainted with that election, and to decide upon and take their own course in consequence; to say nothing of the transmission of such intelligence of it to Europe as would be indispensable to the efficacy of the conditional revocation?

This general view would alone be sufficient to discredit the arbitrary construction under consideration. But it will be more completely exposed by an explanation of the nature of the act which the letter professes to expect from the United States, in case Great Britain should omit to revoke. This act is a revival of the non-intercourse law as to England, France remaining exempt from it, as well as from the provisions of the subsequent law, commonly called the Non-intercourse Act. Now if it is too plain, upon the face of the last-mentioned law, (to which the letter expressly refers,) to escape the most negligent and unskilful observer, that this revival could not, by any industry or chance, be accomplished before the time fixed for the cessation of the French Decrees, or even for a considerable time afterwards, it certainly cannot be allowable to assume, that the revival was required by the letter (whatever was the object of the writer or his Government,) to precede the cessation. And if this was not required, it is incontrovertible that the cessation would, by the terms of the letter, take place on the appointed day, whether any of the events disjunctively specified had intervened or not.

The first step towards a revival of the non-intercourse against England would be the proclamation of the President, that France had so revoked or modified her edicts, as that they ceased to violate the neutral commerce of the United States. But the letter of Monsieur Champagny left the Decrees as it found them, up to the 1st of November, and consequently up to that day it could not, for any thing contained in that letter, be said that the rights of American commerce were no longer infringed by them. A prospective proclamation that they *would* cease to violate those rights, might perhaps be issued; but it could scarcely have any substantial operation, either in favour of France or to the prejudice of England, until the epoch to which it looked had arrived.

Let it be admitted, however, that all physical and legal obstacles to the issuing, before the 1st of November, of a proclamation, to take effect immediately, were out of the way—how would such a proceeding fulfil, of itself, the expectation that the United States would, before the 1st of November, "*cause their rights to be respected by the English,*" in the mode pointed out in the letter, namely, by the enforcement of the Non-Intercourse Law? The proclamation would work no direct or immediate consequence against England.

Three months from its date must pass away before the Non-Intercourse Law could revive against her; and when it did so, the revival would not be the effect of the proclamation, but of the continued adherence of England to her obnoxious system. Thus, even if a proclamation, effectual from its date, had been issued by the President on the day when the French declaration of the repeal came to the hands of the American Minister at Paris, the intercourse between the United States and Great Britain would, on the 1st of November, have remained in the same condition in which it was found in August. As all this was well understood by the Government of France, the conclusion is, that its Minister, professing too to have the American law before him, and to expect only what was *conformable with that law*, did not intend to require the revival of the non-intercourse against England as a condition to be performed before the 1st of November.

It is worthy of remark, as introductory to another view of this subject, that even they who conclude that the repeal of the French Decrees has failed, are not backward to ascribe to the French Declaration a purpose utterly inconsistent with that conclusion. They suppose the purpose to have been to affect the existing relations between America and England by the only means which the Declaration states, the Act of Non-Intercourse. And it is certain that unless England should abandon particular parts of her system, this was the result avowedly in view, and meant to be accomplished. But there could be no hope of such a result, without a previous effectual relinquishment of the French Decrees. A case could not otherwise be made to exist (as the Duke of Cadore was aware) for such an operation of the American law. To put the law before the revocation was impossible. With the law in his hand, it would have been miraculous ignorance not to know that it was the exact reverse of this which his paper must propose. He would derive this knowledge, not from that particular law only, but from the whole tenor and spirit of American proceedings, in that painful and anomalous dilemma in which Great Britain and France, agreeing in nothing else, had recently combined to place the maritime interests of America. He would collect from those proceedings, that while those conflicting powers continued to rival each other in their aggressions upon neutral rights, the Government of the United States would oppose itself impartially to both. The French Declaration, then, had either no meaning at all, or it meant to announce to General Armstrong a positive revocation of the French edicts.

I should only fatigue your Lordship by pursuing farther a point so plain and simple. I will therefore merely add to what I have already said on this branch of the subject, that the strong and unqualified communication from General Armstrong to me, mentioned in the commencement of this letter, and corroborated by subsequent communications (one of which I now lay before you,) may, perhaps, without any great effort of courtesy, be allowed to contain that "authentic intelligence" which your Lordship is in search of. He could scarcely have been free from doubt if the occasion was calculated to suggest it, and if he had really doubted, would hardly have spoken to me with the confidence of conviction.

It only remains to speak of the *practical effect* of the French repeal. And here your Lordship must suffer me to remind you, that the Orders of England in 1807 did not wait for the practical effect of the Berlin Decree, nor linger till the obscurity in which the meaning of that Decree was supposed to be involved, should be cleared away by time or explanation. They came promptly after the Decree itself, while it was not only ambiguous, but inoperative, and raised upon an idle prohibition, and a yet more idle declaration, which France had not attempted to enforce, and was notoriously incapable of enforcing, a vast scheme of oppression upon the seas, more destructive of all the acknowledged rights of peaceful states than history can parallel. This retaliation, as it was called, was so rapid, that it was felt before the injury which was said to have provoked it; and yet that injury, such as it was, was preceded by the practical assertion, on the part of Great Britain, of new and alarming principles of public law, in the notification of the blockade of May

1806, and in the judicial decisions of the year before. To uphold the retaliatory Orders, every thing was presumed with a surprising facility. Not only was an impotent, unexecuted, and equivocal menace presumed to be an active scourge of the commerce of neutral nations, but the acquiescence of those nations was presumed against the plainest evidence of facts.

The alacrity with which all this was done can never be remembered without regret and astonishment; but our regret and astonishment must increase, if, after four years have been given to the pernicious innovation which these presumptions were to introduce and support, something like the same alacrity should not be displayed in seizing an honourable opportunity of discarding it for ever.

It is not unnatural to imagine that it will be discarded with pleasure, when it is considered, that having never been effectual as an instrument of hostility, it cannot now lay claim to those other recommendations for which it may have heretofore been prized. The Orders in Council have passed through some important changes; but they have been steady, as long as it was possible, to the purpose which first impressed upon them a character not to be mistaken.

In their original plan, they comprehended not only France, and such allied or dependent Powers as had adopted the edict of Berlin, but such other nations as had merely excluded from their ports the commercial flag of England. This prodigious expansion of the system, was far beyond any intelligible standard of retaliation; but it soon appeared that neutrals might be permitted to traffic under certain restrictions, with all these different nations, provided they would submit, with a dependence truly colonial, to carry on their trade through British ports, and to pay such duties as the British Government should think fit to impose, and such charges as British agents and other British subjects might be content to make.

The United States abstained from this traffic, in which they could not embark without dishonour; and in 1809, the system shrunk to narrower dimensions, and took the appearance of an absolute prohibition of all commercial intercourse with France, Holland and the Kingdom of Italy.

The prohibition was absolute in appearance, but not in fact. It had lost something of former exuberance, but nothing of former pliancy, and in the event was seen to yield to the demands of *one* trade, while it prevented every other.

Controlled and relaxed and managed by licences, it did not, after a brief exhibition of impartial sternness, affect to "distress the enemy" by the occlusion of his ports, when the commerce of *England* could advantageously find its way to them. At length, however, this convenience seems to be enjoyed no longer, and the Orders in Council may apparently be now considered (if indeed they ought not always to have been considered) as affecting England with a loss as heavy as that which they inflict on those whose rights they violate. In such circumstances, if it be too much to expect the credulity of 1807, it may yet be hoped, that the evidence of the practical effect of the French repeal need not be very strong to be satisfactory. It is however as strong as the nature of such a case will admit, as a few observations will shew.

On such an occasion it is no paradox to say, that the want of evidence is itself evidence: that certain Decrees are not in force, is proved by the absence of such facts as would appear if they were in force. Every motive which can be conjectured to have led to the repeal of the edicts, invites to the full execution of that repeal, and no motive can be imagined for a different course. These considerations are alone conclusive.

But farther, it is known that American vessels bound confessedly to England, have, before the 1st of November, been visited by French privateers, and suffered to pass, upon the foundation of the prospective repeal of the Decree of Berlin, and the proximity of the day on which it would become an actual one.

If there are not even stronger facts to shew that the Decree of Milan is also withdrawn, your Lordship can be at no loss for the reason. It cannot be proved that an American vessel is practically held by France. Not to be denationalized by British visitation, because your cruizers *visit* only to *capture*, and compel the vessel visited to terminate her voyage, not in France, but in England. You will not ask for the issue of an experiment which yourselves intercept, nor complain that you have not received evidence, which is not obtained, because you have rendered it impossible. The vessel which formed the subject of my note of the 8th instant, and another more recently seized as prize, would, if they had been suffered, as they ought, to resume their voyages after having been stopped and examined by English cruizers, have furnished on that point unanswerable proof; and I have reason to know, that precise offers have been made to the British Government to put to a practical test the disposition of France in this respect, and that those offers have been refused. Your cruizers, however, have not been able to visit all American vessels bound to France, and it is understood, that such as have arrived have been received with friendship.

I cannot quit this last question without entering my protest against the pretension of the British Government to postpone that justice which it owes to my Government and country, for this tardy investigation of consequences. I am not able to comprehend upon what the pretension rests, nor to what limits the investigation can be subjected. If it were even admitted that France was more emphatically bound to repeal her almost nominal Decrees than Great Britain to repeal her substantial Orders (which will not be admitted) what more can reasonably be required by the latter than has been done by the former? The Decrees are officially declared by the Government of France to be repealed. They were ineffectual as a material prejudice to England before the Declaration, and must be so since. There is therefore nothing of substance left for this dilatory inquiry, which if once begun, may be protracted without end, or at least till the hour for just and prudent decision has passed. But, if there were room to apprehend that the repealed Decrees might have some operation in case the Orders in Council were withdrawn, still, as there is no sudden and formidable peril to which Great Britain could be exposed by that operation, there can be no reason for declining to act at once upon the declaration of France, and to leave it to the future to try its sincerity, if that sincerity be suspected.

I have thus disclosed to your Lordship, with that frankness which the times demand, my view of a subject deeply interesting to our respective countries. The part which Great Britain may act on this occasion cannot fail to have important and lasting consequences, and I can only wish that they may be good.

By giving up her Orders in Council and the blockades, to which my letter of the 21st of September relates, she has nothing to lose in character or strength. By adhering to them she will not only be unjust to others, but unjust to herself.

I have the honour to be, &c.

(Signed)

WM. PINKNEY.

*The Marquess Wellesley,
&c. &c. &c.*

(First Inclosure, referred to in No. 15.)

General Armstrong to Mr. Pinkney.

SIR,

Paris, August 6th, 1810.

I HAVE the honour to inform you, that His Majesty, the Emperor and King, has been pleased to revoke his Decrees of Berlin and Milan. Of this interesting fact I had this morning a written and official notice in the following words, viz: "Je suis autorisé à vous déclarer Monsieur que les Décrets de Berlin et de Milan sont révoqués, et qu'à dater du 1er Novembre, ils cesseront d'avoir leur effet."

Sincerely hoping that you may be able to turn this circumstance to some useful account, I forward it per triplicate.

And am, Sir, with great respect, &c.

(Signed)

JOHN ARMSTRONG.

William Pinkney, Esq.

(Second Inclosure, referred to in No. 15.)

General Armstrong to Mr. Pinkney.

SIR,

Paris, August 7th, 1810.

I HAZARDED a line or two yesterday, by way of Morlaix, merely to inform you, that the Imperial Decrees of Berlin and Milan were at last given up.

I now send you by a more direct conveyance, a copy of the Duke of Cadore's letter to me of the 5th instant.

And am, Sir, with very great respect, &c.

(Signed)

JOHN ARMSTRONG.

William Pinkney, Esq.

N.B.—This last letter was not received till the 29th of August, after Mr. Pinkney's note of the 25th, to Lord Wellesley, had been sent in. That note was founded upon the letter of the 6th.

W. P.

(Paper, referred to in second Inclosure in No. 15.)

Le Ministre des Relations Extérieures, à M. Armstrong.

MONSIEUR,

Paris, le 5 Août 1810.

J'AI mis sous les yeux de S. M. l'Empereur et Roi, l'Acte du Congrès du 1er Mai, extrait de la Gazette des Etats Unis, que vous m'avez fait passer. S. M. aurait désiré que cet Acte et tous les autres Actes du Gouvernement des Etats-Unis qui peuvent intéresser la France, lui eussent toujours été notifiés officiellement. En général, elle n'en a eu connoissance qu'indirectement et après un long intervalle de tems. Il résulte de ce retard des inconvéniens graves qui n'auraient pas lieu, si ces Actes étaient promptement et officiellement communiqués.

L'Empereur avait applaudi à l'embargo général, mis par les Etats-Unis sur tous leurs Batimens, parce que cette mesure, si elle a été préjudiciable à la France, n'avait au moins rien d'offensant pour son honneur. Elle lui a fait perdre ses Colonies de la Guadeloupe, de la Martinique, et de Cayenne. L'Empereur ne s'en est pas plaint. Il a fait ce sacrifice au principe qui avait

déterminé les Américains à l'Embargo, en leur inspirant la noble résolution de s'interdire les Mers, plutôt que de se soumettre aux lois de ceux qui veulent s'en faire les dominateurs.

L'Acte du 1er Mars a levé l'Embargo, et l'a remplacé par une mesure qui devait nuire surtout aux intérêts de la France. Cet Acte que l'Empereur n'a bien connu que très-tard, interdisait aux batimens Américains le commerce de la France, dans le tems qu'il l'autorisait pour l'Espagne, Naples, et la Hollande, c'est à-dire pour les Pays sous l'influence Française, et prononçait la confiscation contre les Bâtimens Français qui entreraient dans les ports d'Amérique. La représaille était de droit et commandée par la dignité de la France, circonstance sur laquelle il était impossible de transiger. Le séquestre de tous les Batimens Américains en France a été la suite nécessaire de la mesure prise par le Congrès.

Aujourd'hui le Congrès revient sur ses pas. Il révoque l'Acte du 1er Mars. Les ports de l'Amérique sont ouverts au commerce Français, et la France n'est plus interdite aux Américains. Enfin le Congrès prend l'engagement de s'élever contre celle des Puissances Belligérantes qui refuserait de reconnaître les droits des Neutres.

Dans ce nouvel état de choses, je suis autorisé à vous déclarer, Monsieur, que les Décrets de Berlin et de Milan sont révoqués, et qu'à dater du 1er. Novembre, ils cesseront d'avoir leur effet, bien entendu qu'en conséquence de cette déclaration, les Anglais révoqueront leurs Arrêts du Conseil et renonceront aux nouveaux principes de Blocus qu'ils ont voulu établir, ou bien que les Etats-Unis, conformément à l'Acte que vous venez de communiquer, feront respecter leurs droits par les Anglais.

C'est avec une satisfaction toute particuliere, Monsieur, que je vous fais connaître cette résolution de l'Empereur. S. M. aime les Américains. Leur prospérité et leur commerce sont dans les vues de sa politique. L'indépendance de l'Amérique est un des principaux titres de gloire de la France. Depuis cette époque, l'Empereur s'est plu à agrandir les Etats-Unis, et, dans toutes les circonstances, ce qui pourra contribuer à l'indépendance, à la prospérité et à la liberté des Amériques, l'Empereur le regardera comme conforme aux intérêts de son empire.

Translation.

The Minister for Foreign Affairs to Mr. Armstrong.

SIR,

Paris, August 5, 1810.

I HAVE laid before His Majesty, the Emperor and King, the Act of Congress of the 1st of May, taken from the Gazette of the United States, which you have sent me.

His Majesty could have wished that this Act, and all the other Acts of the Government of the United States, which interest France, had always been officially made known to him. In general he has only had a knowledge of them indirectly, and after a long interval of time. There has resulted from this delay serious inconveniences, which would not have existed if these Acts had been promptly and officially communicated.

The Emperor had approved of the general embargo, laid by the United States on all their vessels, because that measure, though it has been prejudicial to France, had in it, at least, nothing offensive to her honour. It has caused her to lose her colonies of Martinique, Guadaloupe, and Cayenne: the Emperor has not complained of it. He has made this sacrifice to the principle which had determined the Americans to lay the embargo, inspiring them with the noble resolution of interdicting to themselves the ocean, rather than to submit

to the laws of those who wished to make themselves the tyrants (les dominateurs) of it.

The Act of the 1st of March has raised the embargo, and substituted for it a measure most injurious to the interests of France; whilst it authorized its continuance, in favour of Spain, Naples, and Holland, that is to say, to the countries under French influence, and denounced confiscation against all French vessels which should enter the ports of America. Reprisal was a right, and commanded by the dignity of France, a circumstance on which it was impossible to make a compromise (de transigir). The sequestration of all the American vessels in France has been the necessary consequence of the measure taken by Congress.

The Congress is now retracing its steps; they revoke the Act of the 1st of March; the ports of America are open to French commerce, and France is no longer interdicted to the Americans. In short, Congress engages to oppose itself to that one of the belligerent powers which should refuse to acknowledge the rights of neutrals.

In this new state of things, I am authorized to declare to you, Sir, that the Decrees of Berlin and Milan are revoked, and that after the first of November they will cease to be in force; it being understood that, in consequence of this declaration, the English shall revoke their Orders in Council, and renounce the new principles of blockade, which they have attempted to establish, or, that the United States, conformably to the Act you have just communicated, shall cause their rights to be respected by the English.

It is with the most particular satisfaction, Sir, that I make known to you this determination of the Emperor. His Majesty loves the Americans. Their prosperity and their commerce are within the scope of his policy.

The independence of America is one of the principal titles of glory to France. Since that epoch the Emperor has taken pleasure in aggrandizing the United States; and, under all circumstances, whatever can contribute to the independence, to the prosperity and the liberty of the Americans, the Emperor will consider as conformable with the interests of his empire.

No 16.

The Marquess Wellesley to Mr. Pinkney.

SIR,

Foreign Office, December 29, 1810.

IN acknowledging the receipt of your letter of the 10th instant, I must express my regret, that you should have thought it necessary to introduce into that letter any topics which might tend to interrupt the conciliatory spirit in which it is the sincere disposition of His Majesty's Government to conduct every negotiation with the Government of the United States.

With an anxious desire to avoid all discussions of that tendency, I shall proceed, without any further observation, to communicate to you the view which His Majesty's Government has taken of the principal question which formed the object of my inquiry during our conference of the 5th instant. The letter of the French Minister for Foreign Affairs to the American Minister at Paris, of the 5th August 1810, did not appear to His Majesty's Government to contain such a notification of the repeal of the French Decrees of Berlin and Milan, as could justify His Majesty's Government in repealing the British Orders in Council. That letter states, "that the Decrees of Berlin and Milan are revoked, and that from the 1st of November 1810, they will cease to be in force, it being understood, that in consequence of this de-

claration, the English shall revoke their Orders in Council, and renounce the new principles of blockade which they have attempted to establish." The purport of this declaration appeared to be, that the repeal of the Decrees of Berlin and Milan would take effect from the 1st of November, *provided* that Great Britain antecedently to that day, and *in consequence of this declaration*, should revoke the Orders in Council, *and* should renounce those principles of blockade which the French Government alledged to be new. A separate condition relating to America, seemed also to be contained in this declaration, by which America might understand, that the Decrees of Berlin and Milan would be actually repealed on the 1st of November 1810, provided that America should resent any refusal of the British Government to renounce the new principles of blockade, and to revoke the Orders in Council.

By your explanation, it appears, that the American Government understands the letter of the French Minister as announcing an absolute repeal, on the 1st of November 1810, of the French Decrees of Berlin and Milan; which repeal, however, is not to continue in force, unless the British Government, within a reasonable time after the 1st of November 1810, shall fulfil the two conditions stated distinctly in the letter of the French Minister. Under this explanation, if nothing more had been required from Great Britain, for the purpose of securing the continuance of the repeal of the French Decrees, than the repeal of our Orders in Council, I should not have hesitated to declare the perfect readiness of this Government to fulfil that condition. On these terms, the British Government has always been sincerely disposed to repeal the Orders in Council. It appears, however, not only by the letter of the French Minister, but by your explanation, that the repeal of the Orders in Council will not satisfy either the French or the American Government. The British Government is further required, by the letter of the French Minister, to renounce those principles of blockade which the French Government alleges to be new. A reference to the terms of the Berlin Decree, will serve to explain the extent of this requisition. The Berlin Decree states, that Great Britain "extends the right of blockade to commercial unfortified towns, and to ports, harbours, and mouths of rivers, which, according to the principles and practices of all civilized nations, is only applicable to fortified places." On the part of the American Government, I understand you to require that Great Britain should revoke her Order of Blockade of May 1806. Combining your requisition with that of the French Minister, I must conclude, that America demands the revocation of that Order of blockade, as a practical instance of our renunciation of those principles of blockade which are condemned by the French Government in the Berlin Decree. Those principles of blockade Great Britain has asserted to be ancient and established by the laws of maritime war, acknowledged by all civilized nations, and on which depend the most valuable rights and interests of this nation. If the Berlin and Milan Decrees are to be considered as still in force, *unless* Great Britain shall renounce those established foundations or her maritime rights and interests, the period of time is not yet arrived, when the repeal of her Orders in Council can be claimed from her, either with reference to the promise of this Government, or to the safety and honour of the nation. I trust that the justice of the American Government will not consider, that France, by the repeal of her obnoxious decrees, under such a condition, has placed the question in that state which can warrant America in enforcing the Non-Intercourse Act against Great Britain and not against France. In reviewing the actual state of this question, America cannot fail to observe the situation in which the commerce of neutral nations has been placed by many recent acts of the French Government; nor can America reasonably expect that the system of violence and injustice now pursued by France with unremitted activity, (while it serves to illustrate the true spirit of her intentions), should not require some precautions of defence on the part of Great Britain.

Having thus stated my view of the several considerations arising from the letter of the French Minister, and from that with which you have honoured

me, it remains only to express my solicitude that you should correct any interpretation of either which you may deem erroneous. If, either by the terms of the original Decree to which the French Minister's letter refers, or by any other authentic document, you can prove that the Decrees of Berlin and Milan are absolutely repealed, and that no further condition is required of Great Britain than the repeal of her Orders in Council, I shall receive any such information with most sincere satisfaction; desiring you to understand, that the British Government retains an anxious solicitude to revoke the *Orders in Council*, as soon as the Berlin and Milan Decrees shall be effectually repealed, without conditions injurious to the maritime rights and honour of the United Kingdom.

I have the honour to be, &c.

William Pinkney, Esq.

(Signed)

WELLESLEY.

No. 17.

Mr. Pinkney to the Marquess Wellesley.

MY LORD,

Great Cumberland Place, January 14, 1811.

AFTER a lapse of many months since I had the honor to receive and convey to my Government your Lordship's repeated assurances, written as well as verbal, (which you declined, however, to put into an official form) "that it was your intention immediately to recommend the appointment of a Minister Plenipotentiary from the King to the United States," the British Government continues to be represented at Washington by a *Chargé d'Affaires*, and no steps whatever appear to have been taken to fulfil the expectation which the abovementioned assurances produced and justified.

In this state of things it has become my duty to inform your Lordship, in compliance with my instructions, that the Government of the United States cannot continue to be represented here by a Minister Plenipotentiary.

As soon, therefore, as the situation of the King's Government will permit, I shall wish to take my leave and return to America in the United States frigate *Essex*, now at Plymouth; having first named, as I am specially authorised to do, a fit person to take charge of the affairs of the American Legation in this country.

I have the honor to be, &c.

The Marquess Wellesley,
 &c. &c. &c.

(Signed)

WM. PINKNEY.

No. 18.

Mr. Pinkney to the Marquess Wellesley.

MY LORD,

Great Cumberland Place, January 14, 1811.

I HAVE received the letter which you did me the honour to address to me on the 29th of last month, and will not fail to transmit a copy of it to my Government. In the mean time, I take the liberty to trouble you with the

following reply, which a severe indisposition has prevented me from preparing sooner.

The first paragraph seems to make it proper for me to begin by saying, that the topics introduced into my letter of the 10th of December, were intimately connected with its principal subject, and fairly used to illustrate and explain it ; and consequently, that if they had not the good fortune to be acceptable to your Lordship, the fault was not mine.

It was scarcely possible to speak with more moderation than my paper exhibits, of that portion of a long list of invasions of the rights of the United States, which it necessarily reviewed, and of the apparent reluctance of the British Government to forbear those invasions in future. I do not know that I could more carefully have abstained from whatever might tend to disturb the spirit which your Lordship ascribes to His Majesty's Government, if, instead of being utterly barren and unproductive, it had occasionally been visible in some practical result, in some concession either to friendship or to justice. It would not have been very surprising, nor very culpable perhaps, if I had wholly forgotten to address myself to a spirit of conciliation, which had met the most equitable claims with steady and unceasing repulsion ; which had yielded nothing that could be denied ; and had answered complaints of injury by multiplying their causes. With this forgetfulness, however, I am not chargeable ; for, against all the discouragements suggested by the past, I have acted still upon a presumption that the disposition to conciliate, so often professed, would finally be proved by some better evidence than a perseverance in oppressive novelties, as obviously incompatible with such a disposition in those who enforce them, as in those whose patience they continue to exercise.

Upon the commencement of the second paragraph, I must observe, that the forbearance which it announces might have afforded some gratification, if it had been followed by such admissions as my Government is entitled to expect, instead of further manifestation of that disregard of its demands, by which it has so long been wearied. It has never been my practice to seek discussions, of which the tendency is merely to irritate ; but I beg your Lordship to be assured, that I feel no desire to avoid them, whatever may be their tendency, when the rights of my country require to be vindicated against pretensions that deny, and conduct that infringes them.

If I comprehend the other parts of your Lordship's letter, they declare in effect, that the British Government will repeal nothing but the Orders in Council, and that it cannot at present repeal even them, because in the first place, the French Government has required, in the letter of the Duke of Cadore to General Armstrong, of the 5th of August, not only that Great Britain shall revoke those Orders, but that she shall renounce certain principles of blockade (supposed to be explained in the preamble to the Berlin Decree) which France alledges to be new ; and, in the second place, because the American Government has (as you conclude) demanded the revocation of the British Order of Blockade of May 1806, *as a practical instance of that same renunciation*, or, in other words, has made itself a party, not openly indeed, but indirectly and covertly, to the entire requisition of France, as you understand that requisition.

It is certainly true, that the American Government has required, as indispensable in the view of its acts of intercourse and non-intercourse, the annulment of the British blockade of May 1806 ; and further, that it has, through me, declared its confident expectation that other blockades of a similar character (including that of the island of Zealand) will be discontinued. But by what process of reasoning your Lordship has arrived at the conclusion, that the Government of the United States, intended by this requisition to become the champion of the edict of Berlin, to fashion its principles by those of France, while it affected to adhere to its own, and to act upon some partnership in doctrines, which it would fain induce you to acknowledge, but could not prevail upon itself to avow, I am not able to conjecture. The rank and honourable character of the American Government justifies me

in saying that, if it had meant to demand of Great Britain an abjuration of all such principles as the French Government may think fit to disapprove, it would not have put your Lordship to the trouble of discovering that meaning by the aid of combinations and inferences discountenanced by the language of its Minister, but would have told you so in explicit terms. What I have to request of your Lordship, therefore, is, that you will take our views and principles from our own mouths, and that neither the Berlin Decree, nor any other act of any foreign State, may be made to speak for us what we have not spoken for ourselves.

The principles of blockade which the American Government professes, and upon the foundations of which it has repeatedly protested against the Order of May 1806, and the other kindred innovations of those extraordinary times, have already been so clearly explained to your Lordship, in my letter of the 21st of September, that it is hardly possible to read that letter and misunderstand them. Recommended by the plainest considerations of universal equity, you will find them supported with a strength of argument and a weight of authority, of which they scarcely stand in need, in the papers which will accompany this letter, or were transmitted in that of September. I will not recapitulate what I cannot improve; but I must avail myself of this opportunity to call your Lordship's attention a second time, in a particular manner, to one of the papers to which my letter of September refers. I allude to the copy of an official note of the 12th of April 1804, from Mr. Merry to Mr. Madison, respecting a pretended blockade of Martinique and Guadalupe. No comment can add to the value of that manly and perspicuous exposition of the law of blockade, as made by England herself in maintenance of rules which have been respected and upheld in all seasons and on all occasions by the Government of the United States. I will leave it, therefore, to your Lordship's consideration, with only this remark, that, while that paper exists, it will be superfluous to seek in any French document, for the opinions of the American Government on the matter of it.

The steady fidelity of the Government of the United States to its opinions on that interesting subject, is known to every body. The same principles which are found in the letter of Mr. Madison to Mr. Thornton, of the 27th of October 1803, already before you, were asserted in 1799, by the American Minister at this court, in his correspondence with Lord Grenville, respecting the blockade of some of the ports of Holland; were sanctioned in a letter of the 20th of September 1800, from the Secretary of State of the United States to Mr. King, of which an extract is enclosed; were insisted upon in repeated instructions to Mr. Monroe and the special mission of 1806; have been maintained by the United States against others as well as against England, as will appear by the enclosed copy of instructions, dated the 21st of October 1801, from Mr. Secretary Madison to Mr. Charles Pinkney, then American Minister at Madrid; and finally, were adhered to by the United States, when belligerent, in the case of the blockade of Tripoli.

A few words will give a summary of those principles; and when recalled to your remembrance, I am not without hopes, that the strong grounds of law and right, on which they stand, will be as apparent to your Lordship as they are to me.

It is by no means clear that it may not fairly be contended, on principle and early usage, that a maritime blockade is incomplete with regard to States at peace, unless the place which it would affect is invested by land as well as by sea. The United States, however, have called for the recognition of no such rule. They appear to have contented themselves with urging in substance, that ports not actually blockaded by a present, adequate, stationary force, employed by the Power which attacks them, shall not be considered as shut to neutral trade, in articles not contraband of war; that, though it is usual for a belligerent to give notice to neutral nations when he intends to institute a blockade, it is possible that he may not act upon his intention at all, or that he may execute it insufficiently, or that he may discontinue his blockade, of which it is not customary to give any notice: that consequently

the presence of the blockading force, is the natural criterion by which the neutral is enabled to ascertain the existence of the blockade at any given period, in like manner as the actual investment of a besieged place, is the evidence by which we decide whether the siege, which may be commenced, raised, recommenced, and raised again, is continued or not; that of course a mere notification to a neutral Minister shall not be relied upon, as affecting, with knowledge of the actual existence of a blockade, either his Government or its citizens; that a vessel cleared or bound to a blockaded port, shall not be considered as violating in any manner the blockade, unless, on her approach towards such port, she shall have been previously warned not to enter it: that this view of the law, in itself perfectly correct, is peculiarly important to nations situated at a great distance from the belligerent parties, and therefore incapable of obtaining other than tardy information of the actual state of their ports; that whole coasts and countries shall not be declared, (for they can never be more than declared) to be in a state of blockade, and thus the right of blockade converted into the means of extinguishing the trade of neutral nations; and lastly, that every blockade shall be impartial in its operation, or, in other words, shall not open and shut for the convenience of the party that institutes it, and at the same time repel the commerce of the rest of the world, so as to become the odious instrument of an unjust monopoly, instead of a measure of honourable war.

These principles are too moderate and just to furnish any motive to the British Government for hesitating to revoke its Orders in Council, and those analogous orders of blockade, which the United States expect to be recalled.

It can hardly be doubted that Great Britain will ultimately accede to them in their fullest extent; but if that be a sanguine calculation (as I trust it is not) it is still incontrovertible that a disinclination at this moment to acknowledge them, can suggest no rational inducement for declining to repeal at once what every principle disowns, and what must be repealed at last.

With regard to the rules of blockade which the French Government expects you to abandon, I do not take upon me to decide whether they are such as your Lordship supposes them to be or not. Your view of them may be correct; but it may also be erroneous; and it is wholly immaterial to the case between the United States and Great Britain whether it be the one or the other.

As to such British Blockades as the United States desire you to relinquish, you will not, I am sure, alledge that it is any reason for adhering to them that France expects you to relinquish others. If our demands are suited to the measure of our own rights, and of your obligations as they respect those rights, you cannot think of founding a rejection of them upon any imputed exorbitance in the theories of the French Government, for which we are not responsible, and with which we have no concern. If, when you have done justice to the United States, your enemy should call upon you to go further, what shall prevent you from refusing? Your free agency will in no respect have been impaired. Your case will be better, in truth, in the opinion of mankind; and you will be, therefore, stronger in maintaining it, provided that, in doing so, you resort only to legitimate means, and do not once more forget the rights of others while you seek to vindicate your own.

Whether France will be satisfied with what you may do, is not to be known by anticipation, and ought not to be a subject of inquiry. So vague a speculation has nothing to do with your duties to nations at peace, and, if it had, would annihilate them. It cannot serve your interests; for it tends to lessen the number of your friends, without adding to your security against your enemies.

You are required, therefore, to do right, and to leave the consequences to the future, when by doing right you have every thing to gain and nothing to lose.

As to the Orders in Council, which professed to be a reluctant departure from all ordinary rules, and to be justified only as a system of retaliation for a pre-existing measure of France, their foundation (such as it was) is gone the

moment that measure is no longer in operation. But the Berlin decree is repealed; and even the Milan decree, the successor of your Orders in Council, is repealed also. Why is it, then, that your Orders have outlived those edicts, and that they are still to oppress and harass as before? Your Lordship answers this question explicitly enough, but not satisfactorily. You do not alledge that the French decrees are not repealed; but you imagine that the repeal is not to remain in force, unless the British Government shall, in addition to the revocation of its Orders in Council, abandon its system of blockade. I am not conscious of having stated, as your Lordship seems to think, that this is so, and I believe in fact that it is otherwise. Even if it were admitted, however, the Orders in Council ought nevertheless to be revoked. Can "the safety and honour of the British Nation" demand that these Orders shall continue to outrage the public law of the world, and sport with the undisputed rights of neutral commerce, after the pretext which was at first invented for them is gone? But you are menaced with a revival of the French system, and consequently may again be furnished with the same pretext! Be it so; yet still, as the system and the pretext are at present at an end, so, of course should be your Orders.

According to your mode of reasoning, the situation of neutral trade is hopeless indeed. Whether the Berlin Decree exists or not, it is equally to justify your Orders in Council. You issued them before it was any thing but a shadow, and by doing so gave to it all the substance it could ever claim. It is at this moment nothing. It is revoked, and has passed away, according to your own admission. You chuse, however, to look for its re-appearance; and you make your own expectation equivalent to the Decree itself. Compelled to concede that there is no anti-neutral French edict in operation upon the ocean, you think it sufficient to say that there will be such an Edict, you know not when; and in the meantime you do all you can to verify your own prediction, by giving to your enemy all the provocation in your power, to resume the Decrees which he has abandoned.

For my part, my Lord, I know not what it is that the British Government requires, with a view to what it calls its safety and its honour, as an inducement to rescind its Orders in Council. It does not, I presume, imagine that such a system will be suffered to ripen into law. It must intend to relinquish it, sooner or later, as one of those violent experiments for which time can do nothing, and to which submission will be hoped in vain. Yet, even after the professed foundation of this mischievous system is taken away, another and another is industriously procured for it; so that no man can tell at what time, or under what circumstances it is likely to have an end. When realities cannot be found, possibilities supply their place, and that, which was originally said to be retaliation for actual injury, becomes at last (if such a solecism can be endured or imagined) retaliation for apprehended injuries, which the future may or may not produce, but which it is certain have no existence now!

I do not mean to grant, for I do not think, that the Edict of Berlin did at any time lend even a colour of equity to the British Orders in Council, with reference to the United States: but it might reasonably have been expected that they, who have so much relied upon it as a justification, would have suffered it and them to sink together. How this is forbidden by your safety, or your honour remains to be explained; and I am not willing to believe that either the one or the other is inconsistent with the observance of substantial justice, and with the prosperity and rights of peaceful States.

Although your Lordship has slightly remarked upon certain recent acts of the French Government, and has spoken in general terms of "the system of violence and injustice now pursued by France," as requiring "some precautions of defence on the part of Great Britain," I do not perceive that you deduce any consequence from these observations, in favour of a perseverance in the Orders in Council. I am not myself aware of any Edicts of France which, now that the Berlin and Milan Decrees are repealed, affect the rights of neutral commerce on the seas. And you will yourselves admit that if any of the acts of the French Government, resting on territorial sovereignty, have

injured, or shall hereafter injure, the United States, it is for them, and for them only, to seek redress. In like manner, it is for Great Britain to determine what precautions of defence those measures of France, which you denominate unjust and violent, may render it expedient for her to adopt. The United States have only to insist that a sacrifice of their rights shall not be among the number of those precautions.

In replying to that passage in your letter, which adverts to the American act of non-intercourse, it is only necessary to mention the proclamation of the president of the United States, of the 2d of November last, and the act of Congress which my letter of the 21st of September communicated, and to add, that it is in the power of the British Government to prevent the non-intercourse from being enforced against Great Britain.

Upon the concluding paragraph of your letter I will barely observe, that I am not in possession of any document, which you are likely to consider as authentic, shewing that the French Decrees are "absolutely revoked upon the single condition of the revocation of the British Orders in Council;" but that the information, which I have lately received from the American Legation at Paris, confirms what I have already stated, and I think proved to your Lordship, that those Decrees are repealed and have ceased to have any effect. I will now trespass on you no further than to suggest that it would have given me sincere pleasure to be enabled to say as much of the British Orders in Council and of the Blockades, from which it is impossible to distinguish them.

I have the honour to be, &c.

(Signed)

WM. PINKNEY,

*The Marquess Wellesley,
&c. &c. &c.*

Extract.

(First Inclosure, referred to in No. 18.)

General Marshall to Mr. King.

Department of State, September 20th, 1800.

THE right to confiscate vessels bound to a blockaded port has been unreasonably extended to cases not coming within the rule as heretofore adopted.

On principle it might well be questioned, whether this rule can be applied to a place, not completely invested by land as well as by sea. If we examine the reasoning on which is founded the right to intercept and confiscate supplies designed for a blockaded town, it will be difficult to resist the conviction, that its extension to towns invested by sea only, is an unjustifiable encroachment on the rights of neutrals. But it is not of this departure from principle, a departure which has received some sanction from practice, that we mean to complain. It is, that ports not effectually blockaded by a force capable of completely investing them, have yet been declared in a state of blockade, and vessels attempting to enter therein, have been seized, and, on that account, confiscated.

This is a vexation proceeding directly from the Government, and which may be carried, if not resisted, to a very injurious extent. Our merchants have greatly complained of it with respect to Cadiz and the ports of Holland.

If the effectiveness of the blockade be dispensed with, then every port, of all the belligerent Powers, may at all times, be declared in that state; and the commerce of Neutrals be, thereby, subjected to universal capture. But if this principle be strictly adhered to, the capacity to blockade will be limited by the naval force of the belligerent, and of consequence the mischief to neutral commerce cannot be very extensive. It is therefore of the last importance to Neutrals, that this principle be maintained unimpaired.

I observe that you have pressed this reasoning on the British Minister; who replies, that an occasional absence of a fleet from a blockaded port, ought not to change the state of the place.

Whatever force this observation may be entitled to, where that occasional absence has been produced by accident, as a storm, which for a moment blows off the fleet and forces it from its station, which station it immediately resumes, I am persuaded that, where a part of the fleet is applied, though only for a time, to other objects, or comes into port, the very principle requiring an effective blockade,—which is, that the mischief can then only be co-extensive with the naval force of the belligerent requires, that during such temporary absence, the commerce of neutrals to the place should be free.

Extract.

(*Second Inclosure, referred to in No. 18.*)

Mr. Madison to Mr. Charles Pinkney.

SIR,

Department of State, October 21st, 1801.

THE pretext for the seizure of our vessels seems at present to be, that Gibraltar has been proclaimed in a state of blockade, and that the vessels are bound to that port. Should the proceeding be avowed by the Spanish Government, and defended on that ground, you will be able to reply:—

1st. That the proclamation was made as far back as the 15th of February, 1800, and has not since been renewed; that it was immediately protested against by the American and other neutral Ministers at Madrid, as not warranted by the real state of Gibraltar, and that no violations of neutral commerce having followed the proclamation, it was reasonably concluded rather to have been a menace against the enemies of Spain, than a measure to be carried into execution against her friends.

2d. That the state of Gibraltar is not, and never can be admitted by the United States to be that of a real blockade. In this doctrine they are supported by the law of nations, as laid down in the most approved commentators, by every treaty which has undertaken to define a blockade, particularly * those of the latest date among the maritime nations of Europe, and by the sanction of Spain herself, as a party to the armed neutrality in the year 1781. The spirit of Articles XV. and XVI. of the Treaty between the United States and Spain, may also be appealed to, as favouring a liberal construction of the rights of the parties in such cases. In fact, this idea of an investment, a siege, or a blockade, as collected from the authorities referred to, necessarily results from the force of those terms; and though it has been sometimes grossly violated or evaded by powerful nations in pursuit of favourite objects, it has invariably kept its place in the code of public law, and cannot be shewn to have been expressly renounced in a single stipulation between particular nations.

3d. That the situation of the naval force at Algeziras in relation to Gibraltar has not the shadow of likeness to a blockade, as truly and legally defined. This force can neither be said to invest, besiege, or blockade the garrison, nor to guard the entrance into the port. On the contrary, the gun boats infesting our commerce have their stations in another harbour separated from that of Gibraltar by a considerable bay; and are so far from beleaguering their enemy at that place, and rendering the entrance into it dangerous to others, that they are, and ever since the proclamation of a blockade, have been, for the most part, kept at a distance by a superior naval force which makes it dangerous to themselves to approach the spot.

4th. That the principle on which the blockade of Gibraltar is asserted, is the more inadmissible, as it may be extended to every other place, in passing to which, vessels must sail within the view and reach of the armed boats belonging to Algeziras. If, because a neutral vessel, bound to Gibraltar, can be annoyed, and put in danger by way-laying cruizers, which neither occupy the entrance into the harbour nor dare approach it, and by reason of that

* See the late Treaties between Russia and Sweden, and between Russia and Great Britain.

danger is liable to capture, every part of the Mediterranean coasts and islands, to which neutral vessels must pass through the same danger, may, with equal reason, be proclaimed in a state of blockade, and the neutral vessels bound thereto made equally liable to capture: or if the armed vessels from Algeziras alone should be insufficient to create this danger, in passing into the Mediterranean, other Spanish vessels, co-operating from other stations, might produce the effect, and thereby not only blockade any particular port, or the ports of any particular nation, but blockade at once a whole sea, surrounded by many nations. Like blockades might be proclaimed by any particular nation, enabled by its naval superiority to distribute its ships at the mouth of the same, or any similar sea, or across channels or arms of the sea, so as to make it dangerous for the commerce of other nations to pass to its destination. These monstrous consequences condemn the principle from which they flow, and ought to unite against it every nation, Spain among the rest, which has an interest in the rights of the sea. Of this Spain herself appears to have been sensible in the year 1780, when she yielded to Russia ample satisfaction for seizures of her vessels, made under the pretext of a general blockade of the Mediterranean, and followed it with her accession to the definition of a blockade contained in the armed neutrality.

5th. That the United States have the stronger ground for remonstrating against the annoyance of her vessels on their way to Gibraltar, inasmuch as with very few exceptions, their object is not to trade there for the accommodation of the garrison, but merely to seek advice or convoy for their own accommodation in the ulterior objects of their voyage. In disturbing their course to Gibraltar, therefore, no real detriment results to the enemy of Spain, whilst a heavy one is committed on her friends. To this consideration it may be added, that the real object of a blockade is, to subject the enemy to privations, which may co-operate with external force in compelling them to surrender; an object which cannot be alledged in a case where it is well known that Great Britain can and does at all times, by her command of the sea, secure to the garrison of Gibraltar every supply which it wants.

6th. It is observable that the blockade of Gibraltar is rested by the proclamation on two considerations; one, that it is necessary to prevent illicit traffic, by means of neutral vessels, between Spanish subjects and the garrison there; the other, that it is a just reprisal on Great Britain for the proceedings of her naval armaments against Cadiz and St. Lucar. The first can surely have no weight with neutrals, but on a supposition never to be allowed, that the resort to Gibraltar, under actual circumstances, is an indulgence from Spain, not a right of their own; the other consideration, without examining the analogy between the cases referred to and that of Gibraltar, is equally without weight with the United States, against whom no right can accrue to Spain from its complaints against Great Britain, unless it could be shewn that the United States were in an unlawful collusion with the latter, a charge which they well know that Spain is too just and too candid to insinuate. It cannot even be said, that the United States have acquiesced in the depredations committed by Great Britain, under whatever pretexts, on their lawful commerce. Had this indeed been the case, the acquiescence ought to be regarded as a sacrifice made by prudence to a love of peace, of which all nations furnish occasional examples, and as involving a question between the United States and Great Britain, of which no other nation could take advantage against the former. But it may be truly affirmed, that no such acquiescence has taken place. The United States have sought redress for injuries from Great Britain, as well as from other nations. They have sought it by the means which appeared to themselves, the only rightful judges, to be best suited to their object; and it is equally certain that redress has in some measure been obtained, and that the pursuit of complete redress is by no means abandoned.

7th. Were it admitted that the circumstances of Gibraltar in February 1800, the date of the Spanish Proclamation, amounted to a real blockade, and that the Proclamation was therefore obligatory on neutrals; and were it also admitted that the present circumstances of that place amount to a real

blockade, (neither of which can be admitted,) still the conduct of the Algeziras cruizers is altogether illegal and unwarrantable. It is illegal and unwarrantable, because the force of the Proclamation must have expired whenever the blockade was actually raised, as must have been unquestionably the case, since the date of the Proclamation particularly, and notoriously when the port of Algeziras itself was lately entered and attacked by a British fleet, and because, on a renewal of the blockade, either a new Proclamation ought to have issued, or the vessels making for Gibraltar ought to have been premonished of their danger, and permitted to change their course as they might think proper. Among the abuses committed under pretext of war, none seem to have been carried to greater extravagance, or to threaten greater mischief to neutral commerce, than the attempts to substitute fictitious blockades by Proclamation, for real blockades, formed according to the Law of Nations; and consequently none against which it is more necessary for neutral nations to remonstrate effectually, before the innovations acquire maturity and authority, from repetitions on one side and silent acquiescence on the other.

No. 19.

The Marquess Wellesley to Mr. Pinkney.

SIR,

Foreign Office, February 11, 1811.

THE letter which I had the honour to receive from you, under date the 14th of January, 1811, has been submitted to His Royal Highness the Prince Regent.

In communicating to you the orders which I have received from His Royal Highness on the subject of your letter, I am commanded to abstain from any course of argument, and from any expression, which (however justified by the general tenor of your observations) might tend to interrupt the good understanding, which it is the wish of His Royal Highness, on behalf of His Majesty, to maintain with the Government of the United States.

No statement contained in your letter appears to affect the general principles, which I had the honour to communicate to you in my letter of the 29th of December, 1810.

Great Britain has always insisted upon her right of self-defence against the system of commercial warfare pursued by France, and the British Orders in Council were founded upon a just principle of retaliation against the French Decrees. The incidental operation of the Orders in Council upon the commerce of the United States, (although deeply to be lamented) must be ascribed exclusively to the violence and injustice of the enemy, which compelled this country to resort to adequate means of defence. It cannot now be admitted that the foundation of the original question should be changed, and that the measure of retaliation adopted against France should now be relinquished, at the desire of the United States, without any reference to the actual conduct of the enemy.

The intention has been repeatedly declared, of repealing the Orders in Council, whenever France shall actually have revoked the Decrees of Berlin and Milan, and shall have restored the trade of neutral nations to the condition in which it stood previously to the promulgation of those Decrees. Even admitting that France has suspended the operation of those Decrees, or has repealed them, with reference to the United States, it is evident that she has not relinquished the conditions expressly declared in the letter of the French Minister, under date the 5th of August 1810. France, therefore, requires that Great Britain shall not only repeal the Orders in Council, but renounce

those principles of blockade which are alledged in the same letter to be new : an allegation which must be understood to refer to the introductory part of the Berlin Decree. If Great Britain shall not submit to these terms, it is plainly intimated in the same letter, that France requires America to enforce them.

To these conditions, His Royal Highness, on behalf of His Majesty, cannot accede. No principles of blockade have been promulgated or acted upon by Great Britain previously to the Berlin Decree, which are not strictly conformable to the rights of civilized war, and to the approved usages and law of nations. The blockades established by the Orders in Council rest on separate grounds, and are justified by the principles of necessary retaliation in which they originated.

The conditions exacted by France, would require Great Britain to surrender to the enemy, the most important maritime rights and interests of the United Kingdom.

I am commanded to inform you, that His Royal Highness cannot consent to blend the question which has arisen upon the Orders in Council, with any discussion of the general principles of blockade.

This declaration does not preclude any amicable discussion upon the subject of any particular blockade, of which the circumstances may appear to the Government of the United States to be exceptionable, or to require explanation.

I have the honour to be, &c.

(Signed) WELLESLEY.

William Pinkney, Esq.

No. 20.

The Marquess Wellesley to Mr. Pinkney.

Foreign Office, February 12th 1811.

THE Marquess Wellesley has the honour to inform Mr. Pinkney that His Royal Highness the Prince Regent will receive the Foreign Ministers at His Levee at Carlton House on Tuesday next, the 19th instant, at two o'clock.

No. 21.

Mr. Pinkney to the Marquess Wellesley.

My Lord,

Great Cumberland Place, February 13th, 1811.

I HAVE had the honour to receive your letter of the 11th Inst. and will transmit a copy of it to my Government. I can have no inducement to trouble your Lordship any farther upon the subjects to which it relates.

I have the honour to be, &c.

(Signed) WM. PINKNEY.

*The Marquess Wellesley,
&c. &c. &c.*

No. 22.

Mr. Pinkney to the Marquess Wellesley.

My Lord,

Great Cumberland-Place, February 13th, 1811.

REFERRING to my letter of the 14th of last month, I beg to be informed by your Lordship at what time His Royal Highness the Prince Regent will do me the honour to give me the audience of leave.

I have the honour to be, &c.

(Signed)

WM. PINKNEY.

*The Marquess Wellesley,**&c. &c. &c.*

No. 23

The Marquess Wellesley to Mr. Pinkney.

SIR,

Foreign Office, February 15th, 1811.

HAVING submitted to His Royal Highness the Prince Regent your desire to have an audience of leave, with a view to your return to America, I am commanded by His Royal Highness to inform you, that He will be prepared to receive you at Carlton House on Tuesday the 19th instant.

At the same time, I am commanded to inform you, that His Royal Highness, in the name and on the behalf of His Majesty, has been pleased to appoint Augustus Foster, Esquire, (lately charged with His Majesty's affairs in Sweden) to be His Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States.

I have the honour to be, &c.

(Signed)

WELLESLEY.

William Pinkney, Esq.

No. 24.

(Private.)

The Marquess Wellesley to Mr. Pinkney.

SIR,

Foreign Office, February 15th, 1811.

IN the various unofficial communications which I have had the honour to make to you, respecting the appointment of a Minister Plenipotentiary from The King to the United States, I have endeavoured to explain to you, in the most distinct manner, the circumstances which had delayed that appointment; and I have expressed my intention to recommend that it should be carried into effect, as soon as the situation of His Majesty's Government might permit.

The delay was occasioned in the first instance (as I stated to you repeatedly) by an earnest desire of rendering the appointment satisfactory to the United States, and conducive to the effectual establishment of harmony between the two Governments. Since that period of time, the state of His Majesty's Government, rendered it impossible to make the intended appointment.

I was therefore concerned to find, by your letter of the 14th of January, that the Government of the United States should be induced to suppose that any indisposition could exist, on the part of His Majesty's Government, to place the British mission in America on the footing most acceptable to the United States, as soon as it might be practicable, consistently with the convenience of affairs in this country.

In pursuance of the intention so often declared to you, His Royal Highness the Prince Regent has been pleased, in the name and on behalf of His Majesty, to appoint Mr. Foster (lately charged with His Majesty's affairs in Sweden) to be His Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States; and that appointment will be notified in the next Gazette.

You will, of course, exercise your own judgment, under these circumstances, respecting the propriety of requiring an audience of leave, on the grounds which you have stated.

I have the honour to be, &c.

(Signed)

WELLESLEY.

William Pinkney, Esq.

No. 25.

Mr. Pinkney to the Marquess Wellesley.

MY LORD,

Great Cumberland-Place, February 17th, 1811.

BEFORE I reply to your official communication of the 15th instant; you will perhaps allow me, in acknowledging the receipt of the unofficial paper which accompanied it, to trouble you with a few words.

From the appointment which you have done me the honour to announce to me, of a Minister Plenipotentiary to the United States, as well as from the language of your private letter, I conclude that it is the intention of the British Government to seek immediately those adjustments with America, without which that appointment can produce no beneficial effect. I presume that, for the restoration of harmony between the two countries, the Orders in Council will be relinquished without delay; that the blockade of May 1806, will be annulled; that the case of the Chesapeake will be arranged in the manner heretofore intended; and, in general, that all such just and reasonable acts will be done as are necessary to make us friends.

My motives will not, I am sure, be misinterpreted, if, anxious to be enabled so to regulate my conduct in the execution of my instructions, as that the best results may be accomplished, I take the liberty to request such explanations on these heads as your Lordship may think fit to give me. I ought to add that as the Levee of His Royal Highness the Prince Regent has been postponed until Tuesday the 26th instant, I have supposed that my audience of leave is postponed to the same day; and that I have, on that ground, undertaken to delay my reply to your official communication until I receive an answer to this letter.

I have the honour to be, &c.

(Signed)

WM. PINKNEY.

*The Marquess Wellesley,
&c. &c. &c.*

No. 26.

(Private.)

The Marquess Wellesley to Mr. Pinkney.

SIR,

Apsley House, February 23d, 1811.

I HAVE the honour to acknowledge the receipt of your private letter under date the 17th instant.

I take the liberty of referring you to my former unofficial letters and communications for an explanation of the motives which have induced this Government, in pursuance of those amicable views which I have uniformly declared, to appoint a Minister Plenipotentiary to the United States.

I have already assured you, that the delay of that appointment was occasioned, in the first instance, by an anxious desire to make it in the manner which was likely to prove most acceptable to the United States. The appointment was recently delayed by the state of His Majesty's Government, and it has ultimately taken place in pursuance of the principles which I have repeatedly stated to you, and not in consequence of any change of system.

It is perhaps unnecessary to repeat the desire of this Government to relinquish the Orders in Council, whenever that measure can be adopted without involving the necessity of surrendering the most important and valuable maritime rights and interests of the United Kingdom.

No objection has ever been stated, on the part of this Government, to an amicable discussion of the principles of any blockade which may be deemed exceptionable by the United States.

I have expressed to you, without reserve, a desire to arrange the case of the Chesapeake on just and equitable principles, and I trust that no apprehension can be entertained of the general disposition of this Government to adopt every reasonable measure which may be necessary to conciliate the friendship of the United States. But it would be neither candid towards you, nor just towards this Government, to countenance any interpretation which might favour a supposition that it was intended by this Government to relinquish any of the principles which I have so often endeavoured to explain to you.

His Royal Highness's Levee will take place on Tuesday the 26th instant; but I have received His commands to signify to such of the Foreign Ministers as may desire to have private audiences, that His Royal Highness will receive them on Thursday the 28th instant. The Foreign Ministers, however, will all be presented to His Royal Highness on Tuesday the 26th instant, on which day I shall attend for that purpose.

I have the honour to be, &c.

(Signed)

WELLESLEY.

William Pinkney, Esq.

No. 27.

Mr. Pinkney to the Marquess Wellesley.

MY LORD,

Great Cumberland-Place, February 23d, 1811.

I HAVE had the honour to receive your private letter of this day's date.

It only remains for me to inform your Lordship, that I have transmitted to the Secretary of State of the United States a copy of your official communication of the 15th instant, and of the unofficial paper which accompanied it; and that I will avail myself of the disposition of His Royal Highness the Prince Regent to give me an audience of leave on Thursday next, the 28th of February, in pursuance of the request contained in my letter of the 13th instant, which referred to my letter of the 14th of January.

I take the liberty to add, that, until the time appointed for my audience, I will not trespass on His Royal Highness for the purpose of being presented to Him.

I have the honour to be, &c.

(Signed)

W. PINKNEY.

*The Marquess Wellesley,
&c. &c. &c.*

No. 28.

Mr. Smith to the Marquess Wellesley.

MY LORD,

18, Bentinck-Street, May 27th, 1811.

I HAVE the honour to inform your Lordship (from official information this day received by me from Paris), that all the American vessels which have voluntarily arrived in France since the 1st of November, have been admitted. This (if any additional evidence of the repeal of the Berlin and Milan Decrees were wanting) will sufficiently establish the fact of their revocation, as most of the vessels now admitted, would otherwise have been subject to their operation.

I have the honour to be, &c.

(Signed)

J. S. SMITH.

*The Marquess Wellesley,
&c. &c. &c.*

No. 29.

Mr. Smith to the Marquess Wellesley.

MY LORD,

18, Bentinck-Street, June 5th, 1811.

I HAVE the honour to communicate to your Lordship the copy of an act passed during the last Session of Congress, which though it renews certain parts of the Non-Intercourse Law against this country, yet it carefully gives to the President the authority to repeal it "when great Britain shall so revoke or modify her edicts as that they shall cease to violate the neutral rights of the United States." In this, as well as in other provisions of the act, His Majesty's Government cannot fail to observe the invariable disposition of the United States to preserve harmony with Great Britain, and to re-establish that happy intercourse between the two nations, which it is so much the interest of both to cultivate; and the President confidently expects that His Majesty will not hesitate to abandon a system, always urged to be merely retaliatory, now that its causes have ceased to exist.

I have the honour to inform your Lordship that the Gentleman who will be the bearer of my dispatches to the United States in the John Adams, will leave town on Friday evening, and that I shall be happy to forward by the same occasion any dispatches that your Lordship may wish to send to the United States.

I have the honour to be, &c.

(Signed)

J. S. SMITH.

The Marquess Wellesley,
 &c. &c. &c.

(Inclosure, referred to in No. 29.)

An Act supplementary to the act, entitled "An Act concerning the commercial intercourse between the United States, and Great Britain and France and their dependencies, and for other purposes."

BE it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, that no vessel owned wholly by a citizen or citizens of the United States, which shall have departed from a British port prior to the 2d of February 1811, and no merchandize owned wholly by a citizen or citizens of the United States, imported in such vessel, shall be liable to seizure or forfeiture on account of any infraction or presumed infraction of the provisions of the act to which this act is a supplement.

Sect. 2. And be it further enacted, that in case Great Britain shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States, the President of the United States shall declare the fact by proclamation; and such proclamation shall be admitted as evidence, and no other evidence shall be admitted of such revocation or modification in any suit or prosecution which may be instituted under the fourth section of the act to which this act is a supplement. And the restrictions imposed or which may be imposed by virtue of the said act, shall, from the date of such proclamation, cease and be discontinued.

Sect. 3. And be it further enacted, that until the proclamation aforesaid shall have been issued, the several provisions of the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act, entitled "An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," shall have full force and be immediately carried into effect against Great

Britain, her colonies and dependencies; provided however, that any vessel or merchandize which may in pursuance thereof be siezed, prior to the fact being ascertained, whether Great Britain shall on or before the 2d of February 1811, have revoked or modified her edicts in the manner abovementioned, shall nevertheless be restored on application of the parties, on their giving bond, with approved sureties, to the United States, in a sum equal to the value thereof to abide the decision of the proper Court of the United States thereon; and any such bond shall be considered as satisfied if Great Britain shall on or before the 2d of February 1811, have revoked or modified her edicts in the manner abovementioned: provided also, that nothing herein contained shall be construed to affect any ships or vessels or the cargoes of ships or vessels wholly owned by a citizen or citizens of the United States, which had cleared out for the Cape of Good Hope, or for any port beyond the same, prior to the 10th day of November 1810.

(Signed)

J. B. VARNUM,

Speaker of the House of Representatives.

JOHN POPE,

President of the Senate *pro tempore*.

March 2d, 1811, approved.

(Signed)

JAMES MADISON.

No. 30.

Mr. Smith to the Marquess Wellesley.

MY LORD,

Bentinck-Street, July 23d, 1811.

THE letter which I have the honour to present to your Lordship, has been just received by me from Mr. Russell. So full and complete is this document, that I conceive it quite unnecessary to add any comments or remarks of my own. I shall, however, have much pleasure in furnishing any other explanations in my power, either verbal or written, that your Lordship may desire.

Any doubts that may have existed here of the effectual repeal of the Decrees of Berlin and Milan will now, I feel assured, be completely removed; and I feel equally confident that this revocation of the French edicts will be immediately followed by that of the Orders in Council, which affect the neutral commerce of the United States. I need not assure your Lordship of the great satisfaction I shall have in communicating this event to my Government.

As the "Orders in Council" have been ever declared by His Majesty's Government to be only of a retaliating character, and that they would cease to have any effect when the causes upon which they were founded had ceased to exist, I trust that no argument is necessary to show (if your Lordship shall feel the force with which the accompanying document unequivocally demonstrates the abandonment, on the part of France, of her Decrees,) that the "Orders in Council" should be so revoked as to embrace the American vessels that have been captured by British cruizers since the 1st of November, the period at which the French edicts were revoked.

I have the honour to subjoin to this, the circumstances of the two vessels to which Mr. Russell alludes in his letter.

The *Grace Ann Green* had been captured by an English cruizer, was retaken by her own crew, and arrived at Marseilles, where vessel and cargo were, notwithstanding, admitted.

The *New Orleans Packet* had been boarded by two English cruizers, and had been also at an English port, thus doubly transgressing the French Deerecs. She arrived at Bourdeaux, was seized by the Director of the Customs for these very transgressions; but, on the remonstrance of Mr. Russell, was immediately released, and has been admitted, vessel and cargo.

I have the honour to be, &c.

(Signed)

J. S. SMITH.

*The Marquess Wellesley,
&c. &c. &c.*

(Inclosure, referred to in No. 30.)

Mr. Russell to Mr. Smith.

SIR,

Paris, July 14, 1811.

I HAD the honour to address to you, on the 5th instant, a brief account of the *Grace Ann Green* and of the *New Orleans Packet*. The proofs which these cases furnish, especially the latter, ought, when, unopposed, as it is, by any conflicting circumstance, to be considered as conclusive of the revocation of the French edicts, to which, if continued in force, these cases would have been liable. In addition, however, to this evidence, I have now the satisfaction to communicate to you the liberation of the *Two Brothers*, the *Good Intent*, and the *Star*, three American vessels captured since the 1st of November, and brought into this empire, or into ports under its controul. I should have no doubt been able to have announced the release, by one general decision, of every American vessel captured since that period, if the only inquiry were, whether or not they had violated the Berlin and Milan Decrees. Unfortunately, however, the practices of late years render the question of property extremely difficult to be satisfactorily decided amidst false papers and false oaths. After the most minute and tedious investigation, it often remains doubtful whether this property belongs to a neutral or an enemy. The time employed in this investigation has surely no connexion with the Berlin and Milan Decrees, and cannot be considered as evidence of their continuance.

It is possible that these Decrees may be kept in force in their municipal character, and be applied for the confiscation of English merchandise on the continent; and to prevent their performing this function does not appear to be a concern of the United States, nor can the measure adopted in retaliation of it, on the part of England, be justly extended beyond its limits, and made to reach an unoffending neutral power, which the act of her enemy does not affect.

It is sufficient for us, that the Berlin and Milan Decrees have ceased to be executed on the high seas, and if the Orders in Council still continue to operate there, they surely are not supported by any principle of the law of retaliation, but must be considered as a simple and unqualified violation of our neutral and national rights.

The proof now before you of the revocation of the Berlin and Milan Decrees, consists in the precise and formal declarations of this Government—in its discontinuance to execute them to our prejudice in a single instance—in its having exempted from their operation every vessel arriving spontaneously since the 1st of November, to which they could be applied, and every vessel forcibly brought in since that time, on which there has been a decision. After such evidence to pretend to doubt of their revocation with regard to us, would seem to be the result of something more than mere incredulity.

With much respect, I am, Sir, &c.

(Signed)

JONA. RUSSELL.

*J. S. Smith, Esq. Chargé d'Affaires,
London.*

N

No. 31.

The Marquess Wellesley to Mr. Smith.

SIR,

Foreign Office, August 8, 1811.

Your letter of the 23d ultimo has been under the consideration of His Royal Highness the Prince Regent, and has received all the attention to which it is entitled.

I am commanded by His Royal Highness to acquaint you, that He has thought fit to postpone the answer to your letter until advices, which are hourly expected, from Mr. Foster, shall have been received.

I have the honour to be, &c.

(Signed)

WELLESLEY.

J. S. Smith, Esq.

No. 32.

The Marquess Wellesley to Mr. Smith.

SIR,

Foreign Office, August 14, 1811.

Since the date of my last letter, I have the honour to inform you, that I have received a letter from Mr. Foster, his Majesty's Minister in America, by which it appears that he had actually commenced a negotiation with the Government of the United States, respecting the British Orders in Council. His dispatches containing the particulars of the negotiation, have not yet reached me. Under these circumstances, I have transmitted a copy of your letter, together with its Inclosure, to Mr. Foster, in order that those documents may receive full consideration in the progress of the discussions now depending in America.

I have the honour to be, &c.

(Signed)

WELLESLEY.

J. S. Smith, Esq.

No. 33.

Mr. Russell to the Marquess Wellesley.

Mr. Russell presents his compliments to the Marquess Wellesley, and has the honour to inform him that the United States' ship *Hornet* will return without delay to America, and that the Messenger who goes by her will leave town on the 14th of this month. It will afford Mr. Russell much pleasure to take charge of any dispatches, which his Lordship may wish to transmit by this occasion.

Mr. Russell cannot forbear to declare to his Lordship the high satisfaction it would afford, to be able to communicate to the American Government by

the *Hornet*, the repeal, or such modification of the Orders in Council, violating the rights of the United States, as would remove the great obstacle to free intercourse and perfect harmony between the two countries.

18, *Bentinel-Street*, Jan. 8, 1812.

No. 34.

Mr. Russell to the Marquess Wellesley.

MY LORD,

London, 8th February, 1812.

I HAVE the honour herewith to hand to your Lordship a copy of a letter addressed to me, on the 29th of last month, by Mr. Barlow, the American Minister at Paris.

I have felt some hesitation in communicating this letter to your Lordship, lest my motive might be mistaken, and an obligation appear to be admitted on the part of the United States, to furnish more evidence of the revocation of the Berlin and Milan Decrees than has already been furnished, or than has been necessary to their own conviction. I trust, however, that my conduct on this occasion will be ascribed alone to an earnest desire to prevent the evils which a continued diversity of opinion on this subject might unhappily produce.

The case of the *Acastus* necessarily implies that American vessels, captured by the cruizers of France, are adjudged by the French navigation laws only, and that the Berlin and Milan Decrees make no part of these laws, the *Acastus* being acquitted, notwithstanding the fact of her having been boarded by an English vessel of war.

To the declaration of Mr. Barlow, that since his residence at Paris, there had been no instance of a vessel, under either the Berlin or Milan decrees, being detained or molested by the French Government, I beg leave to add that, previous to his residence and subsequent to the 1st of November, 1810, these decrees were not executed in violation of the neutral or national rights of the United States.

Whatever doubts might have originally been entertained of the efficient nature of the revocation of those decrees, on account of the form in which that measure was announced, those doubts ought surely now to yield to the uniform experience of fifteen months, during which period not a single fact has occurred to justify them.

I do not urge in confirmation of this revocation the admission of American vessels with cargoes, arrived in the ports of France after having touched in England, as stated by Mr. Barlow, and as accords with what occurred during my residence at Paris, because such admission is evidence only of the cessation of the municipal operation of the decrees in relation to the United States, of which it cannot be presumed that the British Government requires an account.

I cannot forbear to persuade myself that the proof now added to the mass which was already before your Lordship, will satisfactorily establish, in the judgment of his Britannic Majesty's Government, the revocation of the decrees in question, and lead to such a repeal of the Orders in Council, in regard to the United States, as will entirely restore the friendly relations and commercial intercourse between the two countries.

I have the honour to be, &c.

(Signed)

JONA. RUSSELL.

The Marquess Wellesley,
 &c. &c. &c.

(Inclosure, referred to in No. 34.)

Mr. Barlow to Mr. Russell.

SIR,

Paris, 29th January 1812.

THE Ship *Acastus*, Captain Cottle, from Norfolk, bound to Tonningen with tobacco, had been boarded by an English Frigate, and was taken by a French privateer, and brought into Fecamp, for the fact of having been so boarded. This was in November last. On the 2nd of December, I stated the facts to the Duke of Bassano; and in a few days after the ship and cargo were ordered by the Emperor to be restored to the owners, on condition that she had not violated the French Navigation Laws, which question was sent to the Council of Prizes to determine. The council determined that no such violation had taken place, and the ship and cargo were definitively restored to Captain Cottle.

To the above fact I can add, that, since my residence here, several American vessels with cargoes have arrived in the ports of France, after having touched in England, the fact being declared; and there is no instance within that period of a vessel, in either of the cases of the Berlin and Milan Decrees, being detained or molested by the French Government.

With great respect, &c.

(Signed)

J. BARLOW.

The Honourable Mr. Russell.

No. 35.

The Earl of Liverpool to Mr. Russell.

SIR,

Foreign Office, 20th Feb. 1812.

I HAVE the honour to transmit to you the copy of an affidavit, sworn at Portsmouth by Elizabeth Eleanor Bowman, stating herself to be the wife of William Bowman, one of His Majesty's subjects, now detained against his will on board the United States' sloop *Hornet*, at present in Cowes' Roads.

You cannot but be aware of the urgent necessity of putting the facts, alleged in this document, into an immediate train of investigation; and I am to request that you will communicate without loss of time, with the commanding officer of the *Hornet*, in order that he may afford you all information in his power, and that the vessel may not put to sea before the result of the inquiry shall be ascertained, in a manner satisfactory to yourself and to this Government.

You must likewise be aware, that this Government has no power to prevent the issuing of a writ of habeas corpus by the friends of Bowman; and that, in that case it would be impossible to impede or delay its execution, and the consequent removal of this question out of the hands of the two Governments, into those of the legal force and authorities of this country.

Anxious to prevent any such proceeding, the inconveniences of which, even if they did not involve the possibility of a forcible execution of the legal process, might yet be considerable; I request your immediate attention to this

communication, and I confidently hope that you will, by affording the means of an amicable investigation, supersede the necessity, in which the friends of Bowman may otherwise feel themselves, of taking the course to which I have before alluded.

I have the honour, &c. &c.

(Signed)

LIVERPOOL.

Jonathan Russell, Esq.

(Inclosure, referred to in No. 35.)

Borough of Portsmouth, in the County of Southampton.

Elizabeth Elinor Bowman, of Kingston, near Portsmouth, in the said county, maketh oath that she was married to Wm. Bowman, late of Portsmouth, shipwright, about six years ago, That he was employed in the Dock-yard there, which he quitted about three years ago and sailed from hence in the *Edward Foot*, a transport, which was wrecked on the Island of Cuba; That she was informed by her husband that he got from Cuba to New York in an American ship, and about the fourth of June last, having got in liquor, he found himself in the American rendezvous there, and that he was compelled against his inclination to go on board the *Hornet*, an American sloop of war, being conducted on board her by a file of soldiers. That the *Hornet* having arrived lately at Cowes, she received a letter from her husband requesting her to come on board to see him; that she accordingly went on board her, but was kept alongside the sloop for about half an hour before the officer would admit her on board. That the permission to remain on board was for half an hour, but the officers would not afterwards permit her to quit the ship until the following Friday. That her husband told her that the officer threatened to punish him for having informed her where he was, and he also told her that there were a great many English on board, several of whom would be glad to quit her; also that some men on board much wished her away from this country, but that she does not know the names of any of the parties. That the said William Bowman, who passed on board the *Hornet* by the name of William Elby is now detained on board her against his will, and is very anxious to quit the American sloop *Hornet*, and to return to his native country.

The mark of

x

ELIZABETH ELINOR BOWMAN.

Sworn at Portsmouth in the said County the 25th day of January 1812, before me, *the same* having been first read, and she having set her mark thereto in my presence.

(Signed)

E. G. Maud,

One of His Majesty's Justices of the Peace for the County of Southampton.

No. 36.

Mr. Russell to the Earl of Liverpool.

MY LORD,

London, February 21, 1812.

I HAVE the honour to inform your Lordship that the United States sloop *Hornet*, left Cowes on the 13th of this month. The statement of this fact does away, I presume, the necessity of a more particular reply to your Lordship's note of yesterday, concerning William Bowman, a seaman on board that ship.

I have the honour to be, &c.
(Signed) JONA RUSSELL.

The Earl of Liverpool,
&c. &c. &c.

No. 37.

*Viscount Castlereagh to Mr. Russell.**Foreign Office, April 21st, 1812.*

THE undersigned, His Majesty's Principal Secretary of State for Foreign Affairs, is commanded by His Royal Highness the Prince Regent to transmit to Mr. Russell, Chargé des Affaires of the Government of the United States of America, the inclosed copy of a Declaration, accompanying an Order in Council, which has been this day passed by His Royal Highness the Prince Regent in Council.

The undersigned is commanded by the Prince Regent to request that Mr. Russell, in making this communication to his Government, will represent this measure, as one conceived in the true spirit of conciliation, and with a due regard, on the part of His Royal Highness, to the honour and interest of the United States; and the undersigned ventures to express his confident hope, that this decisive proof of the amicable sentiments which animate the Councils of His Royal Highness towards America, may accelerate the return of amity and mutual confidence between the two states.

(Signed)

CASTLEREAGH.

*Jona. Russell, Esq.**(Inclosure, referred to in No. 37.)*

DECLARATION.

THE Government of France having, by an official report, communicated by its Minister for Foreign Affairs to the Conservative Senate, on the 10th day of March last, removed all doubts as to the perseverance of that Government in the assertion of principles, and in the maintenance of a system, not more hostile to the maritime rights and commercial interests of the British Empire, than inconsistent with the rights and independence of neutral nations; and having thereby plainly developed the inordinate pretensions, which that system, as promulgated in the Decrees of Berlin and Milan, was, from the first, designed to enforce; His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, deems it proper, upon this formal and authentic republication of the principles of those Decrees, thus publicly to declare His Royal Highness's determination, still firmly to resist the introduction and establishment of this arbitrary code, which the Government of France openly avows its purpose to impose by force upon the world, as the Law of Nations.

From the time that the progressive injustice and violence of the French Government made it impossible for His Majesty any longer to restrain the exercise of the rights of war within their ordinary limits, without submitting to consequences not less ruinous to the commerce of His dominions, than derogatory to the rights of His crown, His Majesty has endeavoured, by a restricted and moderate use of those rights of retaliation, which the Berlin and Milan Decrees necessarily called into action, to reconcile neutral states to those measures, which the conduct of the enemy had rendered unavoidable, and which His Majesty has at all times professed His readiness to revoke, so soon as the Decrees of the enemy, which gave occasion to them, should be formally and unconditionally repealed, and the commerce of neutral nations be restored to its accustomed course.

At a subsequent period of the war, His Majesty, availing Himself of the then situation of Europe, without abandoning the principle and object of the Orders in Council of November 1807, was induced so to limit their operation, as materially to alleviate the restrictions thereby imposed upon neutral

[CLASS A.]

P

commerce. The Order in Council of April 1809 was substituted in the room of those of November 1807, and the retaliatory system of Great Britain acted no longer on every country in which the aggressive measures of the enemy were in force, but was confined in its operation to France, and to the countries upon which the French yoke was most strictly imposed; and which had become virtually a part of the dominions of France.

The United States of America remained nevertheless dissatisfied; and their dissatisfaction has been greatly increased by an artifice too successfully employed on the part of the enemy, who has pretended, that the Decrees of Berlin and Milan were repealed, although the Decree effecting such repeal has never been promulgated; although the notification of such pretended repeal distinctly described it to be dependent on conditions, in which the enemy knew Great Britain could never acquiesce; and although abundant evidence has since appeared of their subsequent execution.

But the enemy has at length laid aside all dissimulation; he now publicly and solemnly declares, not only that those Decrees still continue in force, but that they shall be rigidly executed until Great Britain shall comply with additional conditions, equally extravagant; and he further announces the penalties of those Decrees to be in full force against all nations which shall suffer their flag to be, as it is termed in this new code, "denationalized."

In addition to the disavowal of the blockade of May 1806, and of the principles on which that blockade was established, and in addition to the repeal of the British Orders in Council—he demands an admission of the principles, that the goods of an enemy, carried under a neutral flag, shall be treated as neutral;—that neutral property under the flag of an enemy shall be treated as hostile;—that arms and warlike stores alone (to the exclusion of ship timber and other articles of naval equipment) shall be regarded as contraband of war;—and that no ports shall be considered as lawfully blockaded, except such as are invested and besieged, in the presumption of their being taken, [*en prevention d'être pris,*] and into which a merchant ship cannot enter without danger.

By these and other demands, the enemy in fact requires, that Great Britain, and all civilized nations, shall renounce, at his arbitrary pleasure, the ordinary and indisputable rights of maritime war; that Great Britain, in particular, shall forego the advantages of her naval superiority, and allow the commercial property, as well as the produce and manufactures of France, and her confederates, to pass the ocean in security, whilst the subjects of Great Britain are to be in effect proscribed from all commercial intercourse with other nations; and the produce and manufactures of these realms are to be excluded from every country in the world, to which the arms or the influence of the enemy can extend.

Such are the demands, to which the British Government is summoned to submit,—to the abandonment of its most ancient, essential, and undoubted maritime rights. Such is the code by which France hopes, under the cover of a neutral flag, to render her commerce unassailable by sea; whilst she proceeds to invade, or to incorporate with her own dominions, all states that hesitate to sacrifice their national interests at her command, and, in abdication of their just rights, to adopt a code, by which they are required to exclude, under the mask of municipal regulation, whatever is British from their dominions.

The pretext for these extravagant demand, is, that some of these principles were adopted by voluntary compact in the Treaty of Utrecht; as if a treaty once existing between two particular countries, founded on special and reciprocal considerations, binding only to the contracting parties, and which, in the last treaty of peace between the same powers, had not been revived, were to be regarded as declaratory of the public law of nations.

It is needless for His Royal Highness to demonstrate the injustice of such pretensions. He might otherwise appeal to the practice of France herself, in this and in former wars; and to her own established codes of maritime law: it is sufficient that these new demands of the enemy form a wide departure

from those conditions on which the alledged repeal of the French Decrees was accepted by America; and upon which alone, erroneously assuming that repeal to be complete, America has claimed a revocation of the British Orders in Council.

His Royal Highness, upon a review of all these circumstances, feels persuaded, that so soon as this formal declaration, by the Government of France, of its unabated adherence to the principles and provisions of the Berlin and Milan Decrees, shall be made known in America, the Government of the United States, actuated not less by a sense of justice to Great Britain, than by what is due to its own dignity, will be disposed to recall those measures of hostile exclusion, which, under a misconception of the real views and conduct of the French Government, America has exclusively applied to the commerce and ships of war of Great Britain.

To accelerate a result so advantageous to the true interests of both countries, and so conducive to the re-establishment of perfect friendship between them; and to give a decisive proof of His Royal Highness's disposition to perform the engagements of His Majesty's Government, by revoking the Orders in Council, whenever the French Decrees shall be actually and unconditionally repealed; His Royal Highness the Prince Regent has been this day pleased, in the name and on the behalf of His Majesty, and by and with the advice of His Majesty's Privy Council, to order and declare:

“ That if at any time hereafter, the Berlin and Milan Decrees shall, by some authentic act of the French Government, publicly promulgated, be absolutely and unconditionally repealed; then, and from thenceforth, the Order in Council of the 7th day of January 1807, and the Order in Council of the 26th day of April 1809, shall, without any further order, be, and the same are hereby declared from thenceforth to be, wholly and absolutely revoked: and further, that the full benefit of this Order shall be extended to any ship or cargo captured subsequent to such authentic act of repeal of the French Decrees, although, antecedent to such repeal, such ship or vessel shall have commenced, and shall be in the prosecution of a voyage, which, under the said Orders in Council, or one of them, would have subjected her to capture and condemnation; and the claimant of any ship or cargo which shall be captured, or brought to adjudication, on account of any alledged breach of either of the said Orders in Council, at any time subsequent to such authentic act of repeal by the French Government, shall, without any further order or declaration on the part of His Majesty's Government on this subject, be at liberty to give in evidence in the High Court of Admiralty, or any Court of Vice Admiralty, before which such ship or cargo shall be brought for adjudication, that such repeal by the French Government had been, by such authentic act, promulgated prior to such capture; and upon proof thereof, the voyage shall be deemed and taken to have been as lawful, as if the said Orders in Council had never been made; saving nevertheless to the captors, such protection and indemnity as they may be equitably entitled to, in the judgment of the said Court, by reason of their ignorance or uncertainty as to the repeal of the French Decrees, or of the recognition of such repeal by His Majesty's Government, at the time of such capture.

“ His Royal Highness, however, deems it proper to declare, that, should the repeal of the French Decrees, thus anticipated and provided for, prove afterwards to have been illusory on the part of the enemy; and should the restrictions thereof be still practically enforced, or revived by the enemy, Great Britain will be compelled, however reluctantly, after reasonable notice, to have recourse to such measures of retaliation as may then appear to be just and necessary.

Westminster, April 21, 1812.

No. 38.

Mr. Russell to Viscount Castlereagh.

MY LORD,

London, 25th April, 1812.

I HAVE the honour to acknowledge the receipt of the note, which your Lordship addressed to me on the 21st of this month, inclosing, by the command of His Royal Highness the Prince Regent, a copy of the Declaration, accompanying an Order in Council which had that day been passed.

It would have afforded me the highest satisfaction, in communicating that Declaration, and Order to my Government, to have been able to represent them as conceived in the same spirit of conciliation, and with a due regard to the honour and interest of the United States. I regret, however, that so far from being able to perceive in them any evidence of the amicable sentiments which are professed to animate the Counsels of His Royal Highness, I am compelled to consider them as an unequivocal proof of the determination of His Britannic Majesty's Government to adhere to a system, which, both as to principle and fact, originated, and has been continued, in error; and against which the Government of the United States, so long as it respects itself, and the essential rights of the nation over which it is placed, cannot cease to contend.

The United States have never considered it their duty to inquire, nor do they pretend to decide, whether England or France was guilty, in relation to the other, of the first violation of the public law of nations, but they do consider it their most imperious duty, to protect themselves from the unjust operation of the unprecedented measures of retaliation, professed by both these powers, to be founded on such violation. In this operation, by whichever party directed, the United States have never for a moment acquiesced, nor, by the slightest indication of such acquiescence, afforded a pretext for extending to them the evils by which England and France affect to retaliate on each other. They have in no instance departed from the observance of that strict impartiality, which their peaceful position required, and which ought to have secured to them the unmolested enjoyment of their neutrality. To their astonishment, however, they perceived, that both these belligerents, under the pretence of annoying each other, adopted and put in practice new principles of retaliation, involving the destruction of the commercial and maritime rights, which the United States regard as essential, and inseparable attributes of their independence. Although alive to all the injury and injustice of this system, the American Government resorted to no measures to oppose it, which were not of the most pacific and impartial character in relation to both the aggressors. Its remonstrances, its restrictions of commercial intercourse, and its overtures for accommodation, were equally addressed to England and to France, and if there is now an inequality in the relation of the United States with these countries, it can only be ascribed to England herself, who rejected the terms proffered to both, while France accepted them, and who continues to execute her retaliatory edicts on the high seas, while those of the latter have there ceased to operate.

If Great Britain could not be persuaded, by considerations of universal equity, to refrain from adopting any line of conduct, however unjust, for which she might discover a precedent in the conduct of the enemy; or to abandon an attempt of remotely and uncertainly annoying that enemy, through the immediate and sure destruction of the vital interests of a neutral and unoffending state; yet it was confidently expected, that she would be willing to follow that enemy also in his return towards justice, and from a respect to her own declarations, to proceed, *pari passu*, with him in the revocation of the offending edicts. This just expectation has, however, been disappointed; and an exemption of the flag of the United States from the operation of the Berlin

and Milan Decrees, has produced no corresponding modification of the British Orders in Council: On the contrary, the fact of such exemption on the part of France, appears, by the Declaration and Order in Council of the British Government, of the 21st of this month, to be denied; and the engagement of the latter to proceed, step by step, in the work of repeal and relaxation, to be disowned or disregarded.

That France has repealed her Decrees, so far as they concern the United States, has been established by declarations and facts satisfactory to them, and which it was presumed would have been equally satisfactory to the British Government. A formal and authentic declaration of the French Government, communicated to the Minister Plenipotentiary of the United States at Paris, on the 5th of August 1810, announced that the Decrees of Berlin and Milan were revoked, and would cease to operate on the 1st of November succeeding, provided that a condition presented to England, or another condition presented to the United States, should be performed. The condition presented to the United States was performed, and this performance rendered absolute the repeal of the Decrees. So far, therefore, from this repeal depending on conditions, in which Great Britain could not acquiesce, it became absolute, independently of any act of Great Britain, the moment the act proposed for the performance of the United States was accomplished. Such was the construction given to this measure, by the United States, from the first, and that it was a correct one, has been sufficiently evinced by the subsequent practice of France.

Several instances of the acquittal of American vessels and cargoes, to which the Decrees could have attached, if still in force against the United States, have from time to time been presented to His Britannic Majesty's Government. That these cases have been few, is to be ascribed to the few captures, in consequence of this repeal, made by the French cruizers, and should no other such case occur, it will be owing to the efficacy of this repeal, and to the exact observance of it even by the most wanton and irregular of those cruizers.

From the 1st of November 1810 to the 29th of January of the present year, as appears by a note which I had the honour to address to the predecessor of your Lordship, on the 8th of February last; the Berlin and Milan Decrees had not been applied to American property, nor have I heard that such application has since been made.

But against the authentic Act of the French Government of the 5th of August 1810, and the subsequent conduct of that Government, mutually explaining each other and confirming the construction adopted by the United States,—is opposed, a report said to be communicated by the French Minister of Foreign Affairs to the Conservative Senate. Without pretending to doubt the genuineness of that report, although it has reached this country only in a newspaper; yet it is to be lamented, that, as much form and evidence of authenticity have not been required in an act, considered as furnishing cause for the continuance of the Orders in Council, as in an act, which by the very terms of those Orders, challenged this revocation; the Act of the 5th of August 1810, emanating from the Sovereign of France, officially communicated to the British Government, and satisfactorily expounded and explained by the practical comments of more than eighteen months, is denied to afford convincing evidence of the repeal of the French Decrees; while full proof of their continuance is inferred from a report, which, by its very nature, must contain the mere opinions and speculations of a subject, which is destitute of all authority until acted upon by the body to which it was presented; which has found its way either in no more authentic shape than the columns of the *Moniteur*, and for the proper understanding of which not a moment has been allowed. But even were the value thus assigned to the report, just, it is still difficult to discover what inference can be fairly deduced from it, incompatible with the previous declarations and conduct of the French Government, exempting the United States from the operation of its Decrees.

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The very exception in that report, with regard to nations which do not suffer their flag to be denationalized, was undoubtedly made with a reference to the United States, and with a view to reconcile the general tenor of that report, with the good faith with which it became France to observe the conventional repeal of those Decrees in their favour. However novel may be the terms employed, or whatever may be their precise meaning, they ought to be so interpreted as to accord with the engagements of the French Government, and with justice and good faith.

Your Lordship will, I doubt not, the more readily acknowledge the propriety of considering the report in this light, by a reference to similar reports made to the same Conservative Senate on the 13th of December 1810, by the Duke of Cadore, the predecessor of the present French Minister of Foreign Relations, and by the Count de Simonville. In these reports, they say to the Emperor (which sufficiently proves that such reports are not to be considered as dictated by him) "Sire, as long as England shall persist in her Orders in Council, so long your Majesty will persist in your Decrees," and "the Decrees of Berlin and Milan are the answer to the Orders in Council; the British Cabinet has, thus to speak, dictated them to France; Europe receives them for her code, and this code shall become the palladium of the liberty of the seas." Surely this language is as strong as that of the report of the 10th of March, and still more absolute, for there is no qualification in it in favour of any nation; yet this language has, both by an explanation from the Duke of Cadore to me at the time, and by the uniform conduct of the French Government, since been reconciled with the repeal of those very Decrees, so far as they concerned the United States.

Had the French Decrees originally afforded an adequate foundation for the British Orders, and been continued after these reports, in their full force and extent, surely, during a period in which above a hundred American vessels and their cargoes have fallen a prey to these Orders, some one solitary instance of capture and confiscation must have happened under those Decrees. That no such instance has happened, incontrovertibly proves, either that those Decrees are of themselves harmless, or that they have been repealed; and in either case, they can afford no rightful plea or pretext to Great Britain, for those measures of pretended retaliation, whose sole effect is to lay waste the neutral commerce of America.

With the remnant of those Decrees, which is still in force, and which consists of municipal regulations, confined in their operations, within the proper and undeniable jurisdiction of the States where they are executed, the United States have no concern; nor do they acknowledge themselves to be under any political examination either to examine into the ends proposed to be attained by this surviving portion of the continental system, or to oppose their accomplishment. Whatever may be intended to be done, in regard to other nations, by this system, cannot be imputed to the United States; nor are they to be made responsible, while they religiously observe the obligations of their neutrality, for the mode in which belligerent nations may choose to exercise their power, for the injury of each other.

When, however, these nations exceed the just limits of their power by the invasion of the rights of peaceful States, on the ocean, which is subject to the common and equal jurisdiction of all nations, the United States cannot remain indifferent, and by quietly consenting to yield up their share of this jurisdiction, abandon their maritime rights. France has respected their rights by the discontinuance of her edicts on the high seas, leaving no part of these edicts in operation to the injury of the United States; and of course, no part in which they can be supposed to acquiesce, or against which they can be required to contend.

They ask of Great Britain, by a like respect of their rights, to exempt them from the operation of her Orders in Council: should such exemption involve the total practical extinction of these Orders, it will only prove that they were exclusively applied to the commerce of the United States, and that they

had not a single feature of resemblance with the Decrees against which they are professed to retaliate.

It is with patience and confidence that the United States have expected this exemption, to which they believed themselves entitled by all those considerations of right and promise, which I have here feebly stated to your Lordship. With what disappointment, therefore, must they learn, that Great Britain, in professing to do away their dissatisfaction, explicitly avows her intention to persevere in her Orders in Council, until some authentic act, hereafter to be promulgated by the French Government, shall declare the Berlin and Milan Decrees to be expressly and unconditionally repealed?

To obtain such an act, can the United States interfere? Would such an interference be compatible either with a sense of justice, or what is due to their own dignity? Can they be expected to falsify the repeated declarations of their satisfaction with the act of the 5th of August 1810, confirmed by abundant evidence of its subsequent observance; and by now affecting to doubt the sufficiency of that act, to demand another, which in its form, its mode of publication, and its import, shall accord with the requisition of Great Britain? And can it be supposed that the French Government could listen to such a proposal, under such circumstances, and with such a view?

While, therefore, I can perceive no reason, in the report of the French Minister, of the 10th of March, to believe that the United States erroneously assumed the repeal of the French Decrees to be complete in relation to them; while aware that the condition on which the revocation of the Orders in Council is now distinctly made to depend, is the total repeal of both the Berlin and Milan Decrees, instead as formerly of the Berlin Decree only; and while I feel that to ask the performance of this condition from others is inconsistent with the honour of the United States, and to perform it themselves beyond their power—your Lordship will permit me frankly to avow, that I cannot accompany the communication to my Government, of the Declaration and the Order in Council of the 21st of this month, with any felicitation on the prospect which this measure presents, of an accelerated return of amity and mutual confidence between the two States.

It is with real pain that I make to your Lordship this avowal, and I will seek still to confide in the spirit, which your Lordship, in your note; and in the conversation of this morning, has been pleased to say, actuated the Counsels of His Royal Highness, in relation to America, and still to cherish a hope, that this spirit will still lead, upon a review of the whole ground, to measures of a nature better calculated to attain its object; and that this object will no longer be made to depend on the conduct of a third power, or upon contingencies, over which the United States have no controul; but alone upon the rights of the United States, the justice of Great Britain, and the common interests of both.

I have the honour to be, &c.

Viscount Castlereagh,
&c. &c. &c.

JONA. RUSSELL.

No. 39.

Mr. Russell to Viscount Castlereagh.—(Received July 9th, 1812.)

THE undersigned Chargé d'Affaires of the United States of America, has the honour to state to Lord Castlereagh, that no American vessel or cargo, arrived in French ports since the first of November 1810, has, so far as is known officially to the undersigned, been condemned, or is now detained for a violation of the Decrees of Berlin and Milan.

In any case where an American vessel or cargo, since that time, has been seized in port, or captured on the high seas, under pretence of such violation, restoration has been decreed by the competent authority; and there are many instances, where American vessels, known to have been boarded by a British

vessel of war, or to have come from a British port, have been admitted without molestation.

From the case of the *Acastus*, officially communicated by the undersigned to the Marquess Wellesley, on the 8th of February last, it appears that the French tribunals no longer proceeded against American vessels or cargoes, under the Decrees in question, but solely with a reference to the French navigation laws; and in the case of the *Star*, as stated to the undersigned, in a letter from the American Minister at Paris, of the 2d of March last, a copy of which is transmitted to Lord Castlereagh herein, the revocation of those decrees, in relation to the United States, is expressly recognised, and the restoration decreed on that ground.

The undersigned takes the liberty to subjoin a list of such American vessels and cargoes as have, according to his official information, infringed the provisions of the Decrees of Berlin and Milan, and been liberated, after capture or seizure, or admitted without molestation, since the epoch above-mentioned.

It cannot be presumed that any of these vessels had French licences, strictly so called, as they were all claimed and freighted as *bond fide* American, both as to flag and property, and as such licences are granted only to French subjects, to protect French property on board of vessels bearing the French flag; nor will it be supposed that these vessels were provided with documents, called by the French Government *permits*.

These *permits* are granted for three American ports only, and some of these vessels came from ports for which they are not granted: they do not protect against a violation of the Decrees of Berlin and Milan, but merely secure admission to certain articles, which, by the French navigation laws, are generally excluded, when imported from the United States; and in no instance, has any vessel or cargo, mentioned in the subjoined list, as far as the undersigned is officially informed, been claimed or restored, on account either of a licence or permit, as above described.

The undersigned requests Lord Castlereagh to transmit a copy of this communication, of that of the 8th of February above mentioned, as well as of that of the 20th of May, to the Judge of the British Court of Admiralty, that he may be able to give to the facts therein stated the consideration to which he may conceive them to be entitled, in adjudging the cases still pending in that court.

The undersigned avails himself, &c.

(Signed)

JONA. RUSSELL.

Viscount Castlereagh,
&c. &c. &c.

(First Inclosure, referred to in No. 39.)

Mr. Barlow to Mr. Russell.

SIR,

Paris, March 2d, 1812.

It seems, from a variety of documents that I have seen, and, among others, the decision of Sir William Scott, in the case of the ship *Fox*, that the British Government requires more proof of the effectual revocation, by the French Government, of the Berlin and Milan Decrees. Though it is not easy to perceive what purpose such additional proof is to answer, either for obtaining justice, or for shewing why it is refused, yet I herewith send you a few cases in addition to what have already been furnished.

I have the honour to be, &c.

(Signed)

JOEL BARLOW.

Jona. Russell, Esq.

(Second Inclosure, referred to in No. 39.)

List of American Vessels liable to the provisions of the Berlin and Milan Decrees, which have been restored after capture or seizure, or which have been admitted in French Ports, without molestation.

The New Orleans Packet—Arrived at Bourdeaux from Gibraltar, in December 1810, and had been twice boarded by British ships of war. She was seized expressly under the Decrees, and after remonstrance against the seizure, on the ground that they were revoked, ship and cargo restored.

The Grace Ann Greene—Arrived at Marseilles from Gibraltar about the same time, and in like manner seized and restored.

The Star—Bound from America to Naples, captured and sent into Toulon for having touched at Gibraltar; ship and cargo restored.

The Neptune—Bound from London to Charlestown, in ballast, captured and sent into Deippe; restored.

The Acastus—Bound from Norfolk to Tonningen, boarded by an English frigate, and afterwards captured by a French privateer, and sent into Fecamp; ship and cargo restored.

The Fly and the Ann Maria—Touched in England, and admitted in France without molestation.

The Marquess de Somervielles, the Phœbe, and the Recovery—Boarded by English vessels of war, and admitted without molestation.

(Signed)

JONA. RUSSELL.

No. 40. *

Viscount Castlereagh to Mr. Russell.

Foreign Office, 13th July 1812.

THE undersigned, His Majesty's Principal Secretary of State for Foreign Affairs, has the honour to acquaint Mr. Russell, in answer to his note, received the 9th of July, "requesting Lord Castlereagh to transmit a copy of the same, together with a copy of that of the 8th of February therein-mentioned, as well as of that of the 20th of May, to the Judge of the British Court of Admiralty, that he may be able to give to the facts therein stated, the consideration to which he may conceive them to be entitled, in adjudging the cases still pending in that Court," that this Government cannot take upon itself to communicate to the Court of Admiralty the papers therein referred to.

The Order in Council of the 21st of April has given to the claimants an opportunity of proving, under certain conditions, the actual repeal of the French Decrees.

In pursuing this remedy, the claimants must furnish their own proof, in a proper form, according to the rules of judicial proceedings. In that course Mr. Russell will have the opportunity of supplying them with any information that he may possess, applicable to their cases.

The undersigned, &c.

(Signed)

CASTLEREAGH.

Jona. Russell, Esq.

* This Number has, by mistake, been omitted in the List of Papers of Class A.

AMERICA.

CORRESPONDENCE

BETWEEN

THE MARQUESS WELLESLEY,

AND

MR. MORIER.

JULY 1810, TO MARCH 1811.

B.

PRESENTED TO PARLIAMENT, BY COMMAND OF HIS ROYAL HIGHNESS THE
PRINCE REGENT, FEBRUARY 1813.

LIST OF PAPERS.

B.

- No. 1. The Marquess Wellesley to Mr. Morier, dated 17th July 1810.
Three Inclosures.
2. Mr. Morier to the Marquess Wellesley, dated 9th October 1810, rec. 14th Dec. 1810.
3. Ditto to Ditto 26th October 1810, Ditto
4. Ditto to Ditto Ditto Ditto
- Two Inclosures.
5. Mr. Morier to the Marquess Wellesley, dated 2d November 1810, received Ditto
- Two Inclosures.
6. Mr. Morier to the Marquess Wellesley, dated 3d December 1810, recd. 14th Jan. 1811.
7. Ditto to Ditto 28th December 1810, 28th Feb. 1811,
- Two Inclosures.
8. Mr. Morier to the Marquess Wellesley, dated 29th December 1810, Ditto
9. Ditto to Ditto 12th January 1811, Ditto
- Two Inclosures.
10. Mr. Morier to the Marquess Wellesley, dated 24th January 1811, Ditto
- One Inclosure.
11. Mr. Morier to the Marquess Wellesley, dated 4th February 1811, rec. 13th April 1811.
- Three Inclosures.
12. Mr. Morier to the Marquess Wellesley, dated 3d March 1811, Ditto
- One Inclosure.

PAPERS

RELATING TO

A M E R I C A.

B.

No. 1.

The Marquess Wellesley to Mr. Morier.

SIR,

Foreign Office, July 17, 1810.

THE King having been pleased to appoint you to be His Majesty's Secretary of Legation to the United States, in order that you might take upon yourself the charge of His Majesty's concerns in that country, on the return of Mr. Jackson to England, I have received His Majesty's commands to direct you to repair forthwith to Portsmouth, there to embark on board His Majesty's ship *Venus*, which has been ordered for your reception.

The inclosed copies of Mr. Pinkney's letter to me, dated the 2d of last January, and of my answer to him, under date of the 14th March, have been already communicated to you. These papers having put you fully in possession of the late misunderstanding, which has arisen from the correspondence between Mr. Jackson and the American Secretary of State, and which has occasioned Mr. Jackson's recall; they will at the same time explain to you the manner in which His Majesty has appreciated Mr. Jackson's conduct, and the language which it is intended that you shall hold towards the American Government, whenever these circumstances shall be made the subject of your conversation. You will at the same time hold in mind, that it is the wish of His Majesty's Government, that all discussion relative to this misunderstanding should terminate with Mr. Jackson's recall.

On your arrival at New York, you will deliver to Mr. Jackson the accompanying dispatch, addressed to that Gentleman, inclosing his re-credentials.

Had Mr. Jackson's mission terminated in the usual manner, he would, of course, have been instructed to present these re-credentials in person to the President of the United States; but under the present circumstances, it is by no means advisable that an attempt should be made to renew any intercourse, between Mr. Jackson and the American Government; unless it were previously ascertained that it would not prove the means of renewing the late discussions. Mr. Jackson will therefore be instructed to return into your hands his re-credentials, in order that you may present them to the Secretary of State at the Seat of Government; and Mr. Jackson will at the same time furnish you with the usual letter to the American Secretary of State, notifying to him, that having received His Majesty's commands to return to England, he had appointed you to take charge of the concerns of His Majesty's mission in America, until the appointment of his successor.

If on your arrival in America you should learn that the heads of the several departments of the American Government have already quitted Washington, and do not purpose to return to that city until the usual period in the ensuing autumn, you will be at liberty to take up your residence either at Philadelphia

or at New York, or in any other town of the United States, where you may think that your presence will be most conducive to His Majesty's interests.

You will in this case take the earliest opportunity of forwarding to the American Secretary of State copies of His Majesty's commission, appointing you his Secretary of Legation, as well as Mr. Jackson's re-credentials, and of the letter with which that Gentleman is to notify your appointment to the American Government.

In general terms, you will at all times assure the American Government, that His Majesty remains cordially disposed to unite with them in forming either a temporary or permanent convention, for an amicable arrangement of the several points of difference between the two countries; but you will explicitly state to the American Secretary of State, in the first interview which you will have with him, (and your language in private conversation will be of the same tenor,) that you are not authorized by His Majesty's Government to propose to that of the United States any preliminary or definitive arrangement whatever, either of a political or commercial nature; nor will you invite from them any proposals of the kind, but, whatever shall be presented to you, you will readily accept, for the purpose of submitting them to the consideration of His Majesty's Government.

I am, &c.

(Signed)

WELLESLEY.

J. P. Morier, Esq.

(First Inclosure, referred to in No. 1.)

Mr. Pinkney to the Marquess Wellesley.

January 2, 1810.

See No. 1—Set A.

(Second Inclosure, referred to in No. 1.)

The Marquess Wellesley to Mr. Pinkney.

March 14, 1810.

See No. 5—Set A.

(Third Inclosure, referred to in No. 1.)

The Marquess Wellesley to Mr. Jackson.

SIR,

Foreign Office, July 3, 1810.

I HAVE received the King's commands to transmit to you herewith His Majesty's letter to the President of the United States, notifying that His Majesty has been pleased to recall you from that mission, which you will deliver to Mr. Morier, the bearer of this dispatch, in order that he may convey it to the President.

In order to prevent any misunderstanding which might arise from Mr. Morier's being charged by you with any direct communication from yourself to the President, I have received His Majesty's commands to give to that Gen-

pleman a letter to the American Secretary of State, acquainting him that he is to remain in charge of His Majesty's mission in America, until the appointment of your successor.

I am, &c.

(Signed)

WELLESLEY.

F. J. Jackson, Esq.

(Paper, referred to in Third Inclosure, in No. 1.)

The Marquess Wellesley to the Honourable Robert Smith.

SIR,

Foreign Office, July 17, 1810.

HIS Majesty having been pleased, on the official application of the American Minister at this Court, to recall, from the mission to the United States of America, Francis James Jackson, Esq. who was residing there in the quality of His Majesty's Envoy Extraordinary and Minister Plenipotentiary, I have received His Majesty's commands to acquaint you, for the information of the President and the Government of the United States, that the King has been pleased to appoint John Philip Morier, Esq. to be His Majesty's Secretary of Legation to the United States, and to reside at the Seat of Government, as Chargé des Affaires, for the purpose of carrying on the ordinary intercourse between the two Governments, (which His Majesty is sincerely desirous of cultivating upon the most friendly terms,) until the appointment of Mr. Jackson's successor.

I am in consequence commanded by His Majesty to request, that you will give to Mr. Morier, in all his transactions with you, that confidence and credit which are due to the character he is invested with, and which may enable him, during his residence in America, to perform the duties of his situation with equal benefit and advantage to the two nations.

I take this opportunity of assuring you, &c.

(Signed)

WELLESLEY.

The Honourable Robert Smith.

No. 2.

Mr. Morier to the Marquess Wellesley.—(Extract.)

Washington, October 9th, 1810.

IN the course of my conversation this day with Mr. Smith, I endeavoured to ascertain what were the sentiments of this Government in regard to the late confiscation of property in France, and whether they carried their attachment to the politics of that country, so far as to find a palliative in the repeal of their Decrees, announced, as that event had been, by M. de Cadore to General Armstrong, with such expressions of attachment from Napoleon to the American people.

It appeared singular enough to me, that, in alluding to the first of these points, he said that the merchants, who had lost property, had received assurances that it would be restored, as if the Government had not interfered in the business, and had left them to make the best bargain they could for themselves; probably to lose one part, in order to save the other, as has actually been the case with some. He disclaimed the idea of indemnifying the merchants out of the dividends of the public funds belonging to the

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Dutch; but he added, that there was property of another description in this country, which might be so applied.

But Mr. Smith avowed that the repeal of the French Decrees, without the restitution of the property, would be of little consequence, in a commercial point of view, to this country, as it was not likely that merchants would risk their merchandize in France.

No. 3.

Mr. Morier to the Marquess Wellesley.

MY LORD,

Washington, October 26th, 1810.

I LOSE no time to inform your Lordship, that Mr. Smith has this day requested of me to ask of His Majesty's Government, whether it was their intention, in revoking the Orders in Council of January and November 1807, to revoke likewise the Order of the 16th of May 1806, which is considered by this Government as much an infraction of its neutral rights as the two former; Mr. Smith positively declaring to me, at the same time, that, if this Order was not recalled, Congress would undoubtedly put in force against England the Non-Intercourse Act, in virtue of an act of their last session, three months after the 2d of November next, on which day it is the determination of the President to issue his Proclamation, restoring the intercourse with France, in consequence of the revocation of her Decrees.

I promised to refer this question immediately to your Lordship, but I thought it my duty decidedly to state my opinion to Mr. Smith, that, the British Government having always considered the blockade established by that Order as an effectual blockade, no renunciation of it, in part or in the whole, could take place, either as a condition of the revocation of the French Decrees, or as a matter of right insisted upon by this country; and I hinted that Mr. Pinkney, who is ordered to ask an explanation of His Majesty's Government on the subject, should be instructed to leave the revocation of this Order to the discretion of our Government, rather than require it on those principles. To this Mr. Smith said, that it was immaterial to this Government upon what principles it was revoked, provided it was done.

I have the honour to be, &c.

(Signed)

J. P. MORIER.

The Marquess Wellesley,
&c. &c. &c.

No. 4.

Mr. Morier to the Marquess Wellesley.—(Extract.)

Washington, October 26th, 1810.

I HAVE the honour to inclose a printed copy published here of the correspondence between Mr. Pinkney and your Lordship on the repeal of the French Decrees, and to acquaint your Lordship that, doubts having arisen with this Government on the exact meaning of your answer to Mr. Pinkney, I have been requested by Mr. Smith, the Secretary of State, to ask of His Majesty's Government an explanation on two questions connected with it.

The first and most material, as according to Mr. Smith, it involves nothing less than the future harmony between the two countries, is, whether or not it is intended to revoke, with the Orders in Council of January and November 1807, the Order of the 16th May 1806, which is looked upon by this Government as violating their neutral rights equally with the two former. For, unless

such is the intention of the British Government, Mr. Smith declared that Congress would look upon itself as bound, in virtue of their act of last session, to put in force the Non-Intercourse Act, as far as it related to England; three months after the proclamation, which would be issued by the President on the 2d of November next, announcing the simple fact of the revocation by France of her obnoxious Decrees, and the restoration of intercourse between her and this country. That Congress would not rest there, but would undoubtedly follow up that with strong measures, calculated to render it more efficacious than it had been before, which measures in their operation would create the most serious collision between the two countries, to prevent which he trusted a favourable answer would be received from the British Government before the expiration of three months.

Mr. Smith then proceeded to the length of declaring, that things were come to such a crisis, that this country would be obliged to take a decided part one way or the other; that he should not have said thus much to me if I had been here in the character of a Minister Plenipotentiary, because it would have the appearance of a threat; but that it was thought due to the anxious and sincere wish of this Government to avoid a rupture with Great Britain to explain at once, and with frankness, the terms on which friendship might be preserved between the two countries.

The other point, connected with the second paragraph of your Lordship's letter, which this Government is desirous should be cleared up, is, whether the condition, on which His Majesty is willing to relinquish a system which the conduct of the enemy compelled him to adopt, namely, the restoration of the commerce of neutrals to the state in which it stood previously to the promulgation of these Decrees, refers to any infringement of that commerce except such as has been occasioned by these Decrees.

I should have confined myself in my reply to Mr. Smith, to a single promise of communicating his conversation to your Lordship, had not the latitude which he had himself taken to throw out a threat from the circumstance of my not being a Minister Plenipotentiary, offered me a favourable opportunity of saying more than I should otherwise have done. I gave my decided opinion to Mr. Smith, that it would be found that the British Government had always looked upon the blockade established by that Order as a blockade *de facto*, and that, on that principle alone, no revocation or modification of it could take place, except as a spontaneous act of the British Government, that, being prior to the French Decrees, it could not be blended, if revoked, with the revocation of the Orders in Council of January and November 1807, which were a consequence of the French Decrees, without allowing that we were the aggressors in a system which originated with the French, and much less could a blockade, established on the principles of the law of nations, be abandoned as a matter of right claimed by this country, without exhibiting to the world a renunciation of principle, as in fact it would be a species of bartering away measures, on which the safety of the country depended, for small and uncertain commercial advantages. Upon these considerations, and as the best proof that this Government was actuated by a sincere desire to arrange their differences with us, I hinted that Mr. Pinkney should be instructed to leave the revocation of that Order to the discretion of our Government. In answer to this, Mr. Smith positively said, that it was immaterial to this Government upon what principles the Order in question was revoked, provided it was revoked; and upon my asking him why it was now thought necessary to make the question between the two countries more intricate by objecting to this Order, when the arrangement with Mr. Erskine went no farther than the revocation of those of January and November, he said that this Government had then totally lost sight of the former Order, or had thought it was included in the two latter, and that they did not discover their mistake until the correspondence which took place between Mr. Pinkney and your Lordship on the subject.

First Inclosure, referred to in No. 4.

Mr. Pinkney to the Marquess Wellesley.

August 25, 1810.

See No. 9.—Set A.

Second Inclosure, referred to in No. 4.

The Marquess Wellesley to Mr. Pinkney,

August 31, 1810.

See No. 10.—Set A.

No. 5.

Mr. Morier to the Marquess Wellesley.—(Extract.)

Washington, November 2d, 1810.

I profit of the sailing of the American frigate Essex, to transmit to your Lordship a Copy of the Proclamation which has been issued this day by the President of the United States, restoring the intercourse between France and this country, in consequence of the revocation, by the former, of the Decrees of Berlin and Milan. The proclamation is followed by a letter from the Secretary of the Treasury to the Collectors of the Customs in the different districts of this country, announcing the same to them, and explaining the Law of Non-intercourse which is to take effect against Great Britain on the 2d of February next, in case the British Government shall not by that time have revoked or modified, in like manner, its Edicts violating the neutral commerce of the United States.

(First Inclosure, referred to in No. 5.)

BY THE

PRESIDENT OF THE UNITED STATES,

A PROCLAMATION.

WHEREAS, by the fourth section of the Act of Congress, passed on the 1st day of May, 1810, entitled, “An Act concerning the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes,” it is provided “that in case either Great Britain or France shall, before the 3d of March next, so revoke or modify her Edicts, as that they shall cease to violate the neutral commerce of the United States, which fact the President of the United States shall declare by proclamation; and if the other nation shall not, within three months thereafter, so revoke or modify her Edicts in like manner, then the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act, entitled ‘An act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes,’ shall, from and after the expiration of three months from the

date of the Proclamation aforesaid, be revived, and have full force and effect, so far as relates to the dominions, colonies and dependencies, and to the articles, the growth, produce or manufacture, of the dominions, colonies and dependencies of the nation thus refusing or neglecting to revoke or modify her Edicts in the manner aforesaid. And the restrictions imposed by this act, shall, from the date of such Proclamation, cease and be discontinued, in relation to the nation revoking or modifying her Decrees in the manner aforesaid :

And whereas, it has been officially made known to this Government, that the Edicts of France, violating the neutral commerce of the United States, have been so revoked, as to cease to have effect, on the first of the present month: Now therefore, I, JAMES MADISON, President of the United States, do hereby proclaim, that the said Edicts of France have been so revoked, as that they ceased, on the said first day of the present month, to violate the neutral commerce of the United States; and that, from the date of these presents, all the restrictions imposed by the aforesaid act, shall cease and be discontinued, in relation to France and her dependencies.

In testimony whereof I have caused the seal of the United States to be hereunto fixed, and signed the same with my hand, at the city of Washington, this 2d day of November, in the year of our Lord, 1810, and of the Independence of the United States the 35th.

(L. S.)

JAMES MADISON.

By the President,

R. SMITH, Secretary of State.

Circular.—(*Second Inclosure, referred to in No. 5.*)

SIR,

Treasury Department, November 2d, 1810.

You will herewith receive a copy of the proclamation of the President of the United States, announcing the revocation of the edicts of France which violated the neutral commerce of the United States, and that the restrictions, imposed by the Act of May 1st last, accordingly ceased from this day in relation to France. French armed vessels may therefore be admitted into the harbours and waters of the United States, any thing in that law to the contrary notwithstanding.

It also follows that if Great Britain shall not, on the 2d day of February next, have revoked or modified in like manner her edicts violating the neutral commerce of the United States, the 3d, 4th, 5th, 6th, 7th, 8th, 9th, 10th, and 18th sections of the "Act to interdict the commercial intercourse between the United States and Great Britain and France and their dependencies, and for other purposes," shall, in conformity with the act first above-mentioned, be revived and have full force and effect, so far as relates to Great Britain and her dependencies, from and after the said 2d day of February next. Unless therefore you shall before that day be officially notified by this department of such revocation or modification, you will, from and after the said day, carry into effect the above-mentioned sections, which prohibit both the entrance of British vessels of every description into the harbours and waters of the United States, and the importation into the United States of any articles the growth, produce or manufacture of the dominions, colonies and dependencies of Great Britain, and of any articles whatever brought from the said dominions, colonies, and dependencies.

I am, respectfully, Sir,
Your obedient servant,
ALBERT GALLATIN.

The Collector of the Customs for the district of
[CLASS B.] D

No. 6.

Mr. Morier to the Marquess Wellesley.

MY LORD,

Washington, December 3, 1810.

MR. SMITH took occasion, during my visit to him this morning, to allude again to the British system of blockades, with a view of shewing that there ought now to be less difficulty in recalling all Orders in Council, which, considered as the means of distressing France, as far as they went to stop her commerce with this country, would be of no effect, since the restrictions imposed by France herself upon that commerce were such as to amount to a prohibition of it; so that, in fact, France might be said to have relinquished the idea of blockading the British Isles for that of effectually blockading her own ports. According to the present regulations, the staple articles of exportation from this country, cottons and tobaccos, in which almost the commerce with France consisted, are to be admitted at particular ports, and only with licences from the French Government, a species of trade, to which Mr. Smith said no American merchant would submit, and to which, if any were found to submit, the Congress would put a stop.

Although I have no doubt that your Lordship must have as good information as can come from hence on this subject, I promised to communicate Mr. Smith's conversation to your Lordship, as it seemed to be his wish that I should do so.

I have the honour to be, &c.

(Signed)

J. P. MORIER,

*The Marquess Wellesley,
&c. &c. &c.*

No. 7.

*Mr. Morier to the Marquess Wellesley,—(Extract.)**Washington, December 28, 1810.*

I HAVE the honour to inclose the copy of a letter which I have written to Mr. Smith, on the occupation of West Florida by the United States. I likewise inclose Mr. Smith's answer to my letter.

*(First Inclosure referred to in No. 7.)**Mr. Morier to the Hon. Robt. Smith,*

SIR,

Washington, December 15, 1810.

I DEEM it to be a duty incumbent on me, considering the strict and close alliance which subsists between His Majesty's Government and that of Spain, to express to the Government of the United States, through you, the deep regret with which I have seen that part of the President's Message to Congress, in which the determination of this Government to take possession of West Florida is avowed.

Without presuming to discuss the validity of the title of the United States to West Florida, a title which is manifestly doubtful, since, according to the President's Proclamation, it is left open to discussion, but which has nevertheless been brought forward as one of the pleas to justify the occupation of that

province; may it not be asked why it could not have been as fairly a subject of negotiation and adjustment in the hands of the Spaniards, who possess the actual sovereignty there, as in the hands of the Americans, who, to obtain possession, must begin by committing an act of hostility towards Spain?

But it may be said that the Spanish forces in Mexico, in Cuba, or at Pensacola, are unequal to quelling the rebellious association of a band of desperadoes who are here known by the contemptuous appellation of Land-Jobbers. Allowing as much, (which you will agree with me, Sir, is allowing a great deal) would it not have been worthy of the generosity of a free nation like this, bearing, as it doubtless does, a respect for the rights of a gallant people, at this moment engaged in noble struggles for its liberty; would it not have been an act, on the part of this country, dictated by the sacred ties of good neighbourhood, and of friendship which exist between it and Spain, to have simply offered its assistance to crush the common enemy of both, rather than to have made such interference the pretext for wresting a province from a friendly power, and that in the time of her adversity?

For allow me, Sir, to enquire, how can the Declaration in the President's Proclamation "that, in the hands of the United States, that territory will not cease to be a subject of fair and friendly adjustment," be made to accord with the Declaration in his Message to Congress (implying permanent possession) of the "adoption of that people into the bosom of the American family?"

The act, consequently, of sending a force to West Florida, to secure by arms what was before a subject of friendly negotiation, cannot, I much fear, under any palliation, be considered as other than as an act of open hostility against Spain.

Whilst, therefore, it is impossible to disguise the deep and lively interest which His Majesty takes in every thing that relates to Spain, which would, I am convinced, induce Him to mediate between Spain and the United States, on any point of controversy which may exist between them, with the utmost impartiality and good-will towards both parties, I think it due to the sincere wish of His Majesty to maintain unimpaired the friendship which at this moment happily exists between Great Britain and the United States, to say, that such are the ties by which His Majesty is bound to Spain, that he cannot see with indifference any attack upon her interests in America. And, as I have no doubt that the Government of the United States will attribute this representation to the most conciliatory motives, I am induced to request, in answer to it, such explanations on the subject, as will at once convince His Majesty's Government of the pacific disposition of the United States towards His allies the Spaniards, and will remove the contrary impression which, I fear, the President's Message is likely to make.

I have the honour to be, &c.

(Signed)

J. P. MORIER.

The Hon. Robert Smith.

(Second Inclosure referred to in No. 7.)

The Honourable Robert Smith to Mr. Morier.

SIR,

Department of State, December 28, 1810.

TAKING into view the subject and the circumstances of your letter of the 15th instant, I have, in acknowledging it, only to remark to you, that, although it is sufficiently evident, from the face of the documents before the public, that no hostile or unfriendly purpose is entertained towards Spain, the only power known to the United States in the transaction, yet our Functionary at London has been enabled to give your Government whatever explanations

may comport with the frankness and the spirit of conciliation which have been invariably manifested on the part of the United States.

I have the honour to be, &c.

(Signed)

R. SMITH.

J. P. Morier, Esq.

No. 8.

Mr. Morier to the Marquess Wellesley.—(Extract.)

Washington, December 29, 1810.

I now transmit to your Lordship the documents which accompanied the President's Message, as they are published for the use of Congress.

Of the correspondence between this Government, and their Minister in France, that part is perhaps worthy of remark, which marks the indifference with which the object of the restitution of their property is abandoned; for, after it had been insisted upon, nearly as a *sine quâ non* to an arrangement with France, in Mr. Smith's letters to Mr. Armstrong of the 5th June, and 5th July 1810, in that of the 2d November, which conveys the Proclamation restoring the intercourse with that country, he contents himself with saying, that, in issuing the Proclamation, "it has been *presumed* that the requisition contained in the former letters on the subject of the sequestered property will have been satisfied," and that act which, in the first letters "excites the indignation of the public, and is called a signal aggression on the principles of justice and good faith," is smoothed down in the President's Message, into a "misapplication of the principle of reprisals, combined with a misconstruction of a law of the United States."

(First Inclosure referred to in No. 8.)

Mr. Smith to Mr. Pinkney,

SIR,

Department of State, July 2, 1810.

YOUR several letters of the 8th and 9th of April, and 2d and 3d of May, have been received.

Whilst it was not known, on the one hand, how far the French Government would adhere to the apparent import of the condition, as first communicated, on which the Berlin Decree would be revoked, and on the other hand, what explanation would be given by the British Government with respect to its blockades prior to the Decree, the course deemed proper to be taken, was that pointed out in my letter to you, of the 11th of November, and in that to General Armstrong, of the 1st of December. The precise and formal Declaration since made by the French Government, that the condition was limited to the blockades of France, or parts of France, of a date prior to the date of the Berlin Decree, and the acknowledgment by the British Government of the existence of such blockades, particularly that of May 1806, with a failure to revoke it, or even to admit the constructive extinguishment of it held out in your letter to the Marquess Wellesley, give to the subject a new aspect and a decided character.

As the British Government had constantly alledged, that the Berlin Decree was the original aggression on our neutral commerce; that her Orders in Council were but a retaliation on that Decree, and moreover, on that ground,

asserted an obligation on the United States to take effectual measures against the Decree, as a preliminary to a repeal of the Orders, nothing could be more reasonable than to expect, that the condition in the shape last presented would be readily accepted. The President is therefore equally disappointed and dissatisfied at the abortiveness of your correspondence with Lord Wellesley, on this important subject. He entirely approves the determination you took to resume it, with a view to the special and immediate obligation lying on the British Government to cancel the illegal blockades, and you are instructed, in case the answer to your letter of the 30th of April, should not be satisfactory, to represent to the British Government in terms, temperate but explicit, that the United States consider themselves authorized, by strict and unquestionable right, as well as supported by the principles heretofore applied by Great Britain to the case, in claiming and expecting a revocation of the illegal blockades of France, of a date prior to that of the Berlin Decree, or preparatory to a further demand of the revocation of that Decree.

It ought not to be presumed, that the British Government in reply to such a representation, will contend, that a blockade like that of May 1806, from the Elbe to Brest, a coast of not less than one thousand miles, proclaimed four years since, without having been at any time attempted to be duly executed by the application of a naval force, is a blockade conformable to the law of nations and consistent with neutral rights. Such a pretext is completely barred, not only by the unanimous authorities, both of writers and of treaties, on this point, not excepting even British treaties; but by the rule of blockade, communicated by that Government to this, in the year 1804, in which it is laid down, that orders had been given not to consider any blockades of those islands, (Martinique and Guadaloupe) as existing, unless in respect of particular ports, which may be actually invested, and then not to capture vessels bound to such ports, unless they shall previously have been warned not to enter them, and that they (the Lords of the Admiralty) had also sent the necessary directions on this subject to the Judges of the Vice Admiralty Courts in the West Indies and America. In this communication, it is expressly stated, that the rule to the British courts and cruisers was furnished in consequence of the representations made by the Government of the United States, against blockades not unlike that now in question, and with the express view of redressing the grievance complained of. Nor ought it to be presumed, that the British Government will finally resort to the plea, that her naval force, although unapplied, is adequate to the enforcement of the blockade of May 1806, and, that this forms a legal distinction between that and the Berlin decree of November following. Were it admitted, that an adequate force existed, and was applicable to such a purpose, the absurdity of confounding the power to do a thing, with the actually doing of it, speaks for itself. In the present case, the absurdity is peculiarly striking. A port blockaded the sea, without a ship near it, being a contradiction in terms, as well as a perversion of law and of common sense.

From the language of Lord Wellesley's two letters, it is possible he may endeavour to evade the measure required, by subtle comments on the posture given to the blockade of May 1806, by the succeeding orders of 1807. But even here he is met by the case of the blockade of Copenhagen and the other ports of Zealand, in the year 1808, at a time when these, with all Danish ports, were embraced by those very orders of 1807; a proof that, however the Orders and blockades may be regarded as in some respects the same, they are regarded, in others, as having a distinct operation, and may consequently co-exist without being absolutely merged in or superseded the one by the other.

In the difficulty which the British Government must feel in finding a gloss for the extravagant principle of her paper blockades, it may perhaps wish to infer an acquiescence on the part of this Government, from the silence under which they have, in some instances, passed. Should a disposition to draw such an inference show itself, you will be able to meet it by an appeal, not only to the successful remonstrance in the letter to Mr. Thornton, above cited, but to the answer given to Mr. Merry, of June 1806, to the notification of a

blockade, in the year 1806, as a precise and authentic record of the light in which such blockades and the notification of them were viewed by the United States. Copies of the answer have been heretofore forwarded, and another is now enclosed, as an additional precaution against miscarriage.

Whatever may be the answer to the representation and requisition which you are instructed to make, you will transmit it without delay to this department. Should it be of a satisfactory nature, you will hasten to forward it also to the diplomatic functionary of the United States at Paris, who will be instructed to make a proper use of it, for obtaining a repeal of the French Decree of Berlin, and to proceed, concurrently with you, in bringing about successive removals by the two governments of all the predatory edicts. I avail myself of this occasion to state to you, that it is deemed of great importance, that our Ministers at foreign courts, and especially at Paris and London, should be kept, the one by the other, informed of the state of our affairs at each.

I have the honour to be, &c.

R. SMITH.

W. Pinkney, Esq.

(Second Inclosure referred to in No. 8.)

Mr. Smith to Mr. Pinkney.

SIR,

Department of State, July 5, 1810.

Your last communications having afforded so little ground for expecting, that the British Government will have yielded to the call on it to originate the annulment of the belligerent edicts against our lawful commerce, by cancelling the spurious blockade of May 1806, (the first in the series) it became a duty, particularly incumbent upon us, to press the other experiment held out in the late act of Congress, another copy of which is herewith sent. You will accordingly make that act, and the disposition of the President to give it effect, the subject of a formal communication.

The British Government ought not to be insensible of the tendency of superadding, to a refusal of the course proposed by France for mutually abolishing the predatory edicts, a refusal of the invitation held out by Congress; and it ought to find in that consideration a sufficient inducement to a prompt and cordial concurrence. The British Government must be conscious also of its having repeatedly stated, that the acquiescence by the United States in the decrees of France, was the only justification of its orders against our neutral commerce. The sincerity and consistency of Great Britain being now brought to the test, an opportunity is afforded to evince the existence of both. It may be added, that the form in which it is prescribed is as conciliatory as the proposal itself is unexceptionable.

As the act of Congress, repealing the late restrictions on the commerce of the United States with the two belligerents, must be unequal in its operation, in case Great Britain should continue to interrupt it with France, inasmuch as France is unable to interrupt it materially with her, the British Government may feel a temptation to decline a course which might put an end to this advantage. But if the unworthiness and unfriendliness of such a purpose should not divert her from it, she ought not to overlook either the opportunity afforded her enemy of retorting the inequality, by a previous compliance with the act of Congress, or the necessity to which the United States may be driven, by such an abuse of their amicable advances, to resume, under new impressions, the subject of their foreign relations.

If the British Government should be disposed to meet, in a favourable manner, the arrangement tendered, and should ask for explanations, as to the extent of the repeal of the French decrees which will be required, your

answer will be as obvious as it must be satisfactory. The repeal must embrace every part of the French decrees which violate the neutral rights guaranteed to us by the law of nations. Whatever parts of the decrees may not have this effect, as we have no right, as a neutral nation, to demand a recall of them, Great Britain can have no pretext, as a belligerent nation, to urge the demand. If there be parts of the decrees liable to objections of another kind, it lies with the United States alone to decide on the mode of proceeding with respect to them.

In explaining the extent of the repeal, which, on the British side, is required, you will be guided by the same principle. You will accordingly let it be distinctly understood, that it must necessarily include an annulment of the blockade of May 1806, which has been avowed to be comprehended in, and identified with the Orders in Council; and which is palpably at variance with the law of nations. This is the explanation which will be given to the French Government on this point by our Minister at Paris, in case it should there be required.

But there are plain and powerful reasons why the British Government ought to revoke every other blockade, resting on proclamations or diplomatic notifications, and not on the actual application of a naval force adequate to a real blockade.

1st. This comprehensive redress is equally due from the British Government to its professed respect for the laws of nations, and to the just claims of a friendly power.

2d. Without this enlightened precaution, it is probable, and may indeed be inferred from the letter of the Duke of Cadore to General Armstrong, that the French Government will draw Great Britain and the United States to issue on the legality of such blockades, by acceding to the Act of Congress, with a condition, that a repeal of the Blockades shall accompany a repeal of the Orders in Council, alleging, that the Orders and Blockades, differing little, if at all, otherwise than in name, a repeal of the former, leaving in operation the latter, would be a mere illusion.

3d. If it were even to happen, that a mutual repeal of the Orders and Decrees could be brought about without involving the subject of Blockades, and with a continuance of the blockades in operation, how could the United States be expected to forbear an immediate call for their annulment? or how long would it probably be before an appeal by France to the neutral law of impartiality would bring up the same question between the United States and Great Britain? and from whatever circumstances the issue on it may arise, the impossibility of maintaining the British side, with even a colour of right or consistency, may be seen in the view taken of the subject, in the correspondence with Mr. Thornton and Mr. Merry, already in your hands.

If the British Government should accede to the overture contained in the Act of Congress, by repealing or so modifying its Edicts as that they will cease to violate our neutral rights, you will transmit the repeal, properly authenticated, to General Armstrong, and if necessary, by a special messenger, and you will hasten to transmit it also to this department.

With great respect, &c. &c.

(Signed)

R. SMITH.

W. Pinkney, Esq.

(Third Inclosure referred to in No. 8.)

Mr. Smith to General Armstrong.

SIR,

Department of State, June 5, 1810.

Your letters of the 17th, 18th, and 21st of February, and 10th, 15th, 21st, and 24th March, with their several inclosures, were received on the 21st May.

As the John Adams is daily expected, and as your further communications by her will better enable me to adapt to the actual state of our affairs with the French Government, the observations proper to be made in relation to their seizure of our property, and to the letter of the Duke of Cadore, of the 14th of February, it is by the President deemed expedient not to make at this time any such animadversions. I cannot, however, forbear informing you, that a high indignation is felt by the President, as well as by the public, at this act of violence on our property, and at the outrage, both in the language and in the matter, of the letter of the Duke of Cadore, so justly portrayed in your note to him of the 10th of March.

The particular object of this letter is to add to my dispatches of the 4th and 22d of May, another chance of hastening into your hands a copy of the Act of Congress of the last session concerning the commercial intercourse between the United States and Great Britain and France.

In the fourth section of this act you will perceive a new modification of the authority given to the President. If there be sincerity in the language held at different times by the French Government, and especially in the late overture to proceed to amicable and just arrangements in case of our refusal to submit to the British Orders in Council, no pretext can be found for longer declining to put an end to the Decrees of which the United States have so justly complained. By putting in force, agreeably to the terms of this statute, the non-intercourse against Great Britain, the very species of resistance would be made which France has been constantly representing as most efficacious. It may be added, that the form in which the law now presents the overture, is as well calculated as the overture itself, to gain a favourable attention, inasmuch as it may be regarded by the belligerent, first accepting it, as a promise to itself, and a threat only to its adversary.

If, however, the arrangement contemplated by the law, should be acceptable to the French Government, you will understand it to be the purpose of the President not to proceed in giving it effect, in case the late seizure of the property of the citizens of the United States has been followed by an absolute confiscation, and restoration be finally refused. The only ground, short of a preliminary restoration of the property, on which the contemplated arrangement can be made, will be an understanding that the confiscation is reversible, and that it will become immediately the subject of discussion, with a reasonable prospect of justice to our injured citizens.

I have the honour, &c.

(Signed)

R. SMITH.

General Armstrong,

(Fourth Inclosure, referred to in No. 8.)

Mr. Smith to General Armstrong.

SIR,

Department of State, July 5th, 1810.

THE arrival of the John Adams brought your letters of the 1st, 4th, 7th, and 16th of April.

From that of the 16th of April it appears, that the seizures of the American property, lately made, had been followed up by its actual sale, and that the proceeds had been deposited in the Emperor's *caisse privé*. You have represented in such colours, the enormity of this outrage, that I have only to signify to you, that the President entirely approves the step that has been taken by you, and that he does not doubt that it will be followed by you, or the person who may succeed you, with such further interpositions as may be deemed advisable. He instructs you particularly to make the French Government sensible of the deep impression made here by so signal an aggression on the principles of justice and of good faith, and to demand every reparation of which the case is susceptible. If it be not the purpose of the

French Government to remove every idea of friendly adjustment with the United States, it would seem impossible but that a consideration of this violent proceeding must lead to a redress of it, as a preliminary to a general accommodation of the differences between the two countries.

At the date of the last communication from Mr. Pinkney, he had not obtained from the British Government an acceptance of the condition, on which the French Government was willing to concur, in putting an end to all the edicts of both, against our neutral commerce. If he should afterwards have succeeded, you will of course, on receiving information of the fact, immediately claim from the French Government the fulfilment of its promise, and by transmitting the result to Mr. Pinkney, you will co-operate with him in completing the removal of all the illegal obstructions to our commerce.

Among the documents now sent, is another copy of the Act of Congress, repealing the Non-Intercourse Law, but authorizing a renewal of it against Great Britain, in case France shall repeal her edicts and Great Britain refuse to follow her example, and *vice versa*. You have been already informed that the President is ready to exercise the power vested in him for such a purpose, as soon as the occasion shall arise. Should the other experiment, in the hands of Mr. Pinkney have failed, you will make the Act of Congress, and the disposition of the President, the subject of a formal communication to the French Government, and it is not easy to conceive any ground, even specious, on which the overture specified in the act can be declined.

If the Non-Intercourse Law, in any of its modifications, was objectionable to the Emperor of the French, that law no longer exists.

If he be ready, as has been declared in the letter of the Duke of Cadore, of February 14, to do justice to the United States, in the case of a pledge on their part not to submit to the British edicts, the opportunity for making good the declaration is now afforded. Instead of submission, the President is ready, by renewing the Non-Intercourse against Great Britain, to oppose to her Orders in Council a measure, which is of a character that ought to satisfy any reasonable expectation. If it should be necessary for you to meet the question, whether the Non-Intercourse will be renewed against Great Britain, in case she should not comprehend, in the repeal of her edicts, her blockades, which are not consistent with the law of nations, you may, should it be found necessary, let it be understood, that a repeal of the illegal blockades, of a date prior to the Berlin Decree, namely, that of May 1806, will be included in the condition required of Great Britain; that particular blockade having been avowed to be comprehended in, and of course identified with the Orders in Council. With respect to blockades, of a subsequent date or not, against France, you will press the reasonableness of leaving them, together with future blockades not warranted by public law, to be proceeded against by the United States in the manner they may choose to adopt. As has been heretofore stated to you, a satisfactory provision for restoring the property lately surprised and seized by the Order, or at the instance of the French Government, must be combined with a repeal of the French edicts, with a view to a Non-Intercourse with Great Britain: such a provision being an indispensable evidence of the just purpose of France towards the United States. And you will, moreover, be careful, in arranging such a provision for that particular case of spoliations, not to awaken the ground on which a redress of others may be justly pursued.

If the Act of Congress, which has legalized a free trade with both the belligerents, without guarding against British interruptions of it with France, whilst France cannot materially interrupt it with Great Britain, be complained of as leaving the trade on the worst possible footing for France, and on the best possible one for Great Britain, the French Government may be reminded of the other feature of the act, which puts it in their own power to obtain either an interruption of our trade with Great Britain, or a recal of her interruption of it with France.

Among the considerations which belong to this subject, it may be re-
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marked, that it might have been reasonably expected, by the United States, that a repeal of the French Decrees would have resulted from the British Order in Council of April 1809. This Order expressly revoked the preceding Orders of November 1807, heretofore urged by France in justification of her Decrees, and was not only different in its extent and its details, but was essentially different in its policy.

The policy of the Orders of 1807 was, by cutting off all commercial supplies, to retort on her enemies the distress which the French Decree was intended to inflict on Great Britain.

The policy of the Order of April 1809, if not avowedly, was, most certainly, to prevent such supplies, by shutting out those only which might flow from neutral sources, in order thereby to favour a surreptitious monopoly to British traders. In order to counteract this policy, it was the manifest interest of France to have favoured the rival and cheaper supplies through neutrals; instead of which, she has co-operated with the monopolizing views of Great Britain, by a rigorous exclusion of neutrals from her port. She has in fact reversed the operation originally professed by her Decree. Instead of annoying her enemy at the expence of a friend, she annoys a friend for the benefit of her enemy. If the French Government should accede to the overture contained in the Act of Congress, by repealing or so modifying its Decrees, as that they will cease to violate our neutral rights, you will, if necessary, transmit the repeal, properly authenticated, to Mr. Pinkney, by a Special Messenger, and you will hasten and insure the receipt of it here, by engaging a vessel, if no equivalent conveyance should offer, to bring it directly from France, and by sending several copies to Mr. Pinkney, to be forwarded from British ports,

I have the honour, &c.

(Signed)

R. SMITH.

General Armstrong, &c. &c. &c.

(Fifth Inclosure, referred to in No. 8.)

Mr. Smith to General Armstrong.—(Extract.)

Department of State, November 2d, 1810.

You will herewith receive a printed copy of the proclamation, which conformably to the Act of Congress, has been issued by the President on the revocation of the Berlin and Milan Decrees. You will however let the French Government understand, that this has been done on the ground, that the repeal of these Decrees does involve an extinguishment of all the edicts of France, actually violating our neutral rights, and that the reservations under the expression "it being understood," are not conditions precedent, affecting the operation of the repeal, and on the ground also that the United States are not pledged against the blockades of Great Britain beyond what is stated in my letter to you of the 5th July. It is to be remarked, moreover, that in issuing the proclamation, it has been presumed that the requisition contained in that letter, on the subject of the sequestered property, will have been satisfied. This presumption is not only favoured by the natural connection of the policy and justice of a reversal of that sequestration, with the repeal of the Decrees, but is strengthened by concurrent accounts, through different channels, that such property as has been sequestered has been actually restored.

No. 9.

Mr. Morier to the Marquess Wellesley.—(Extract.)

Washington, January 12th, 1811.

I HAVE the honour to enclose some additional papers, which have been laid before Congress, containing a correspondence between the French

Minister and Secretary of State on the late commercial regulations in France as they regard this country.

No documents will tend farther to illustrate the difficulties, into which the politics of this Administration have brought the country, than Mr. Smith's answer to General Turreau's letter of the 12th December 1810, copies of which are among them.

(First Inclosure, referred to in No. 9.)

General Turreau to the Honourable Robt. Smith.

SIR,

Washington, December 12th, 1810.

IF I have not replied sooner to the letter which you did me the honour to write to me the 28th of last month, it is because I have sought information from the Consul-General of His Majesty, whether he had not received directly instructions more recent than those which I had transmitted to him, and also to enable me to give a positive answer to the questions contained in the letter referred to above.

In reply, Sir, to the first of your questions, that the Consuls from His Majesty to the United States have always delivered certificates of origin to American vessels to the ports of France: they did it in execution of a Decree of His Majesty of the first of Messidor, of the year eleven.

The French Consuls have also delivered them to vessels destined for neutral or allied ports, whenever they have been required of them. This measure was sanctioned and authorized by a circular dispatch of his Excellency the Minister of Foreign Relations, under date of the 20th April 1808. This dispatch describes the formalities to be gone through for the certificates delivered in such cases.

I proceed now, Sir, to reply to the second of your questions.

By a dispatch of his Excellency the Duke of Cadore, of the 30th of August last, received by the Hornet, the 13th of last month, and of which information was given the same day to the Consuls and Vice-Consuls of His Majesty, they are expressly prohibited from delivering certificates of origin for merchandize of any kind, or under any pretext whatever, if the vessels are not destined for France.

This reply to your second question, Sir, furnishes you with a solution of the third. The Consuls and Vice-Consuls of His Majesty will have ceased to deliver certificates of origin to vessels for any other place than France, immediately on the receipt of this circular, which will reach them a few days sooner or later, according to the greater or less distance of the places of their residence.

Concerning cotton and tobacco: their importation into France is at this moment especially prohibited; but I have reasons to believe, (and I pray you, meanwhile, to observe, Sir, that they do not rest upon any facts) that some modifications will be given to this absolute exclusion. These modifications will not depend upon the chance of events, but will be the result of other measures, firm, and pursued with perseverance, which the two Governments will continue to adopt, to withdraw from the monopoly and from the vexations of the common enemy, a commerce, loyal (loyal) and necessary to France as well as to the United States.

Accept, Sir, &c.
(Signed)

TURREAU.

Honourable Robert Smith.

(Second Inclosure, referred to in No. 9.)

The Honourable Robt. Smith to General Turreau.

SIR,

Department of State, Dec. 18, 1810.

I have had the honour of receiving your letter of the 12th inst. in reply to my enquiries in relation to certificates of origin, as well as to the admission into France of the products of the agriculture of the United States.

From your letter it appears, that the importation into France of cotton and tobacco, the produce of the United States, is at this time especially and absolutely prohibited.

From the Decree of the 15th July, it moreover appears, that there can be no importation into France, but upon terms and conditions utterly inadmissible, and that, therefore, there can be no importation at all of the following articles, the produce of the United States, namely, fish-oil, dye-wood, salt-fish, cod-fish, hides and peltry.

As these enumerated articles constitute the great mass of the exports from the United States to France, the mind is naturally awakened to a survey of the actual condition of the commercial relations between the two countries, and to the consideration that no practical good, worthy of notice has resulted to the United States, from the revocation of the Berlin and Milan Decrees, combined, as it unexpectedly has been, with a change in the commercial system of France, so momentous to the United States.

The act of Congress of May last had for its object, not merely the recognition of a speculative legitimate principle, but the enjoyment of a substantial benefit. The overture, therein presented, obviously embraced the idea of commercial advantage. It included the reasonable belief, that an abrogation of the Berlin and Milan Decrees would leave the ports of France as free for the introduction of the produce of the United States, as they were previously to the promulgation of those Decrees.

The restrictions of the Berlin and Milan Decrees had the effect of restraining the American merchants from sending their vessels to France. The interdictions in the system, that have been substituted, against the admission of American products, will have the effect of imposing upon them an equal restraint. If then, for the revoked Decrees, municipal laws, producing the same commercial effect, have been substituted, the mode only, and not the measure, has undergone an alteration.—And however true it may be, that the change is lawful in form, it is, nevertheless, as true, that it is essentially unfriendly, and that it does not at all comport with the ideas inspired by your letter of the 27th ult. in which you were pleased to declare the “distinctly pronounced intention of His Imperial Majesty of favouring the commercial relations between France and the United States in all the objects of traffic, which shall evidently proceed from their agriculture or manufactures.”

If France, by her own acts, has blocked up her ports against the introduction of the products of the United States, what motive has this Government, in a discussion with a third power, to insist on the privilege of going to France? Whence the inducement to urge the annulment of a blockade of France, when, if annulled, no American cargoes could obtain a market in any of her ports? In such a state of things, a blockade of the coast of France would be to the United States as unimportant, as would be a blockade of the coast of the Caspian sea.

The British edicts may be viewed, as having a double relation: 1st to the wrong done to the United States; 2d to the wrong done to France. And it is in the latter relation only, that France has a right to speak. But what wrong, it may be asked, can France suffer from British orders, which co-operate with their own regulations?

However sensible the United States may be to the violation of their neutral rights under those edicts, yet if France herself has by her own acts rendered

it a theoretical instead of a practical violation, it is for this Government to decide on the degree in which sacrifices of any sort may be required by considerations, which peculiarly and exclusively relate to the United States. Certain it is, that the inducements to such sacrifices are weakend, as far as France can weaken them, by having converted the right, to be maintained, into a naked one, whilst the sacrifices to be made would be substantial and extensive.

A hope, however, is indulged, that your instructions from your Government will soon enable you to give some satisfactory explanations of the measures to which reference has been made, and that their operation, in virtue of modifications, which have not yet transpired, will not be as has been herein represented.

The President has received with great satisfaction the information, that the Consuls of France have been heretofore in the official and authorised practice of furnishing certificates of origin to American vessels; as well to those destined to neutral ports, as to those, whose sovereigns are in alliance with France; and that this practice, sanctioned by the French Government, did not cease in any part of the United States before the 13th of last month, and then only in consequence of a dispatch from the Duke of Cadore, bearing date the 30th August preceeding. This satisfaction arises from the hope, that similar information may have been given to the Danish Government, and from a sense of the happy influence, which such a communication will have had on the American property, that had been seized and detained by the privateers of Denmark, upon the supposition that these certificates of origin were spurious, and not authorised by the French Government. It is, nevertheless, to be regretted, that the functionaries of France in Denmark had not made known to the Danish authorities, during the occurrence of such outrages on the American trade, the error of denouncing, as illegitimate, authentic documents, which had been lawfully issued by the accredited Agents of His Imperial Majesty.

I have the honour to be, &c.

(Signed)

R. SMITH.

General Turreau

No. 10.

Mr. Morier to the Marquess Wellesley.—(Extract.)

Washington, January 24th, 1811.

IN the correspondence inclosed in my dispatch of the 12th instant, your Lordship will observe, that the letter from General Turreau to the Secretary of State, dated the 12th ultimo, contains a pretty plain declaration that the French Government, and that of the United States, regarding Great Britain as their common enemy, are united in pursuing certain measures against her. It was natural for me to suppose that Mr. Smith, confining himself in the first instance to replying to General Turreau on the immediate subject which had occasioned that correspondence, would have taken some future opportunity of expressing the disavowal of this Government of its participation in that declaration. Such at least would have been the conduct of a Government guided by the mere common sense of propriety towards a friendly Power. But, having waited in vain for this proof of good faith on the part of this Government towards Great Britain, I have thought it indispensable with my duty to address the inclosed note to Mr. Smith on the subject.

Having an opportunity of speaking to that Minister yesterday evening, I inquired of him when it was likely that an answer would be returned to

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my note, expressing, at the same time, the sincere desire I had not to transmit the Correspondence, which had given occasion to that note, without the disavowal of this Government of the strange declaration of General Turreau. Mr. Smith was evidently much embarrassed on this subject. He said he had not heard from the President since my note had been laid before him : that, he however, thought it so trivial a circumstance, that this Government had not noticed it till I had : that it was to be looked upon as a *mere flourish* of the French Minister, which meant nothing. He then, upon my persisting to say that the language of General Turreau had nothing equivocal in it, declared he had once thought of replying to that particular part of his letter, but that, from the pressure of business, it had slipped his memory ; that, however, the tenor of his answer implied sufficiently that this Government did not coincide with the declaration of General Turreau : that it would embarrass the Government to go back upon this subject, and that their Minister in London would be instructed to make an explanation on it to His Majesty's Government.

(Inclosure, referred to in No. 10.)

Mr. Morier to the Honourable Robert Smith.

Washington, January 19th, 1811.

THE undersigned, His Britannick Majesty's Chargé d'Affaires, has the honour to request the attention of Mr. Smith, Secretary of State, to a letter from General Turreau, dated the 12th of December, which is among the documents laid before the House of Representatives on the 28th of last month, in which, after speaking of the modifications which may be given to the absolute exclusion of cotton, &c. he says, "These modifications will not depend upon the chance of events, but will be the result of other measures, firm, and pursued with perseverance, which the two Governments will continue to adopt, to withdraw from the monopoly and from the vexations of the common enemy, a commerce loyal and necessary to France, as well as to the United States."

Taking it for granted that this is a correct translation from the original, and that the third power, to which it alludes as the *common enemy*, is Great Britain, the undersigned has no hesitation in saying, that he can only look upon it as tantamount to a declaration, that France and the United States regard Great Britain as their common enemy, against whom those two Powers are actually united in pursuing certain firm measures with perseverance.

Regarding it in this light, it requires but few comments on the part of the undersigned. It will be sufficient that he expresses his surprise that, at a time when this Government professes to be at peace with his Britannic Majesty, a declaration, at once subversive of its neutrality, as it announces its co-operation with the bitterest foe of Great Britain, should, if unwarrantably made by General Turreau, have remained to this moment unanswered by this Government, although it is made so largely to participate in it.

The undersigned, however unwilling he may be to attribute the silence of this Government to its acquiescence in principles so inimical to Great Britain, is not unmindful that a refutation of them is essentially connected with the interests of his Sovereign ; and, if (as he firmly hopes) this Government still cherishes the continuance of that happy state of amity which exists between it and Great Britain, he trusts that it will, in its wisdom, see the immediate necessity of delaying no longer to disavow publicly its concurrence in a Declaration so fraught with mischief.

(Signed) J. P. MORIER.

The Honourable Robert Smith.

No. 11.

Mr. Morier to the Marquess Wellesley.—(Extract.)

Washington, February 4th, 1811.

On the 31st ultimo, a bill, supplementary to the Act for enforcing the non-intercourse Law against Great Britain, was to have been discussed in the House of Representatives in a Committee of the whole House, when a message from the President, containing the inclosed correspondence of Mr. Russell the American Chargé d'Affaires at Paris, was sent to that body, and gave quite a new turn to their proceedings.

I beg of your Lordship here to remark, that Mr. Russell's letter to the Secretary of State is written on the 11th December, the day after the Report of the Duke of Cadore to the Senate; and, as the President's Proclamation must have been known at Paris shortly after that, there would have been a full time, if the Berlin and Milan Decrees had been really revoked, for Mr. Russell to have obtained a favourable answer to his remonstrance before the departure of the vessel charged with his dispatch, which only sailed from Bourdeaux the 1st January.

With such strong evidence before them, most persons would have been satisfied that those decrees were, in fact, not rescinded.

As such is the general conviction here, and as your Lordship will see, in the sequel, that it is the secret, though not avowed, belief of the administration itself, the line of conduct, which this Government ought instantly to have pursued, whether out of regard to its own dignity, or to the just claims of Great Britain, was of no doubtful nature, since it had been marked out when the arrangement with Mr. Erskine was disavowed by His Majesty's Government.

Measures, as prompt as circumstances required them, ought to have been taken, for restoring that perfect equality between the two belligerents, which had, in fact, been already in part destroyed by the President's Proclamation, but which was now about to be done away completely, by the operation of the act of Congress of May 1, 1810.

I conceived it, therefore, to be my immediate duty to express as much, verbally, to the Secretary of State.

After the many proofs, which this Government has given, of the degree of humiliation to which it will submit, to keep on terms with France, your Lordship will not wonder that such decisive measures were yet far from their contemplation.

Mr. Smith said, that the letter from their Chargé d'Affaires could not be looked upon as conclusive on the subject; that the vessel, *the New Orleans Packet*, might have been seized under Decrees independent of those of Berlin and Milan; and that farther accounts must be received from France, before this Government could decisively alter the line of conduct which it had pursued since the revocation of the Berlin and Milan Decrees had been announced to them.

That my verbal communication to Mr. Smith might not be forgotten, I thought it right to remind him of it the same day, by a note, the copy of which I have the honour to inclose; and I waited upon him at the same time, wishing to impress it upon him, that, as long as there was the least doubt with regard to the sincerity of the declaration of the Duke of Cadore to General Armstrong, there ought to be none as to the line to be adopted with regard to Great Britain. That no Non-Intercourse could be enforced, according to their own act of Congress, until the fact of the repeal of the French Decrees was fully established.

(First Inclosure, referred to in No. 11.)

Mr. Russell to the Hon. Robert Smith.

SIR,

Paris, December 11, 1810.

ON the evening of the 9th instant, I learnt that the Essex frigate had arrived at L'Orient on the 4th, and had been put under quarantine for five days, for the want of a bill of health, during which time the messenger is not allowed to come on shore. At the same time that I received this intelligence, I was also informed that the brig New Orleans Packet, was seized at Bourdeaux, under the Berlin and Milan Decrees, by the Director of the Customs at that place. The simultaneous occurrence of these two events, formed in my opinion a crisis which required a prompt decision of this Government. Under this impression I immediately addressed to the Duke of Cadore the note, of which the inclosed is a copy, and in which I thought it politic to remonstrate with firmness against the proceedings of the Director of the Customs at Bourdeaux, and to leave the Government here at liberty to disavow them. This disavowal, however, I am persuaded depends entirely on the nature of the dispatches brought by the Essex. I feel, therefore, the most lively anxiety to receive them. In the mean time, I give this letter a chance of reaching you, by a vessel about leaving Bourdeaux for New York.

Since my last, the Hanseatic towns have been annexed to this empire.

I have informed Mr. Pinkney of the arrival of the Essex, and suggested to him the possibility that the proclamation of the President had come out by her, in order that he might, if he thought proper, make a final attempt to obtain a repeal of the Orders in Council, while it was yet in the power of the British Ministry to do it with a good grace.

I have the honour to be, &c.

(Signed)

JONA RUSSELL.

Hon. Robert Smith,

(Second Inclosure, referred to in No. 11.)

Mr. Russell to the Duke of Cadore.

SIR,

Paris, December 10, 1810.

I HAVE this moment learnt that the American brig, New Orleans Packet, lately arrived at Bourdeaux, has, with her cargo, the *bona fide* property of citizens of the United States, and laden at the port of New York, been seized by the Director of the Customs under the Berlin and Milan Decrees. I have also been informed, that this Director of the Customs, not satisfied with this hardy violation of the solemn assurances given by your Excellency to General Armstrong, on the 5th of August last, and confirmed by your letter to him of the 7th of September, that these Decrees were revoked and would cease to operate from the 1st of November, has, without regard to the plighted faith of his Government, announced his intention of selling the provisions which constitute a part of the cargo, under the pretext that they are perishable.

The clear and unequivocal manner in which the revocation of the Berlin and Milan Decrees were announced by your Excellency, forbids me for a moment to suppose, that the violent proceedings of this man will be sanctioned by His Majesty the Emperor and King, or that the least delay will be allowed in placing the property thus arrested at the free disposition of the rightful owner, whose confidence alone in the good faith with which it becomes nations to perform their engagements, has brought him to the place where he is so inhospitably treated.

I am persuaded that your Excellency will not, on this occasion, attempt to remind me of the conditions on which the revocation of those Decrees were predicated. These conditions were in the alternative, and the performance of either is sufficient to render absolute and perpetual that revocation. It is of no importance that the British Orders in Council have not been withdrawn, if the United States, in due time, perform the condition which depends alone on them. And what is this condition? why, to execute an act of Congress against the English, which to be thus executed, requires the previous revocation of these very Decrees. The letter of your Excellency, of the 5th of August, appears to have been written with a full knowledge of this requisition of the law, and manifestly with the intention to comply with it, in order that it might be competent for the President of the United States to exercise the contingent power which had been given to him.

It will not be pretended, that the Decrees have in fact been revoked; but that the delay of the United States in performing the condition presented to them authorises their revival. The case of the New Orleans Packet is the first which has occurred since the 1st of November, to which the Berlin and Milan Decrees could be applied, and if they be applied to this case, it will be difficult for France to show one solitary instance of their having been practically revoked. As to delay on the part of the United States, there has been none. No official information of the letter of your Excellency of the 5th of August, left France for the United States, owing to circumstances which it was not in the power of General Armstrong to controul, until the 29th of September, and to this moment I have not learnt that such official information has been there received. I might indeed have learnt it, and been able now to have communicated to your Excellency the measures on which the President has decided in consequence of it, had not the frigate, the *Essex*, dispatched by him, been put under quarantine on her arrival at L'Orient, for the want of a bill of health, and the messenger thereby detained since the 4th of this month.

I will not undertake to decide, whether a bill of health ought, in courtesy, to be exacted of a frigate of a friendly Power, coming in the winter season from a place not known to have been lately afflicted with any malignant disease; but surely the delay which this exaction occasions, cannot be imputed to a want of due diligence on the part of the American Government.

It is from this view of the subject that I am thoroughly convinced, that the application of the Berlin or Milan Decree, by the Director of the Customs at Bourdeaux, to the New Orleans Packet, will not be approved by His Majesty, but that prompt and efficient measures will be taken to correct a procedure, which, if persisted in, might produce a state of things which it is the obvious interest of both nations to avoid. I pray your Excellency to be assured of my most distinguished consideration, &c.

(Signed)

JONA. RUSSELL.

The Duke of Cadore,

(Third Inclosure, referred to in No. 11.)

Mr. Morier to the Honourable Robert Smith.

SIR,

Washington, February 1st, 1811.

HAVING before me a printed copy of the Correspondence from Mr. Russell, the American Chargé d'Affaires at Paris, which was laid before Congress yesterday, I beg leave to state briefly in writing the considerations (which I had the honour to submit verbally to you this morning) arising out of the state of things which that Correspondence has disclosed.

This, Sir, you will allow me to say, is not done so much with a view of reminding you of the expectations, which I then expressed, would naturally be formed by His Majesty's Government of the measures that would be pur-

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sued by the Government of the United States on the present occasion, as it is for the more immediate purpose of suggesting to you the necessity which appears to require its prompt decision on a subject so exclusively applicable to its connection with Great Britain.

Mr. Russell's letter to the Duke of Cadore, dated the 10th of December, proves incontestibly that the Berlin and Milan Decrees were not recalled on the 1st of November, since a vessel of the United States was seized, after that period, under those very decrees.

That the collector, who made the seizure, acted without the orders of his Government, cannot reasonably be admitted, nor can it be admitted that a disavowal of that act by the French Government when the President's Proclamation of the 2d of November should be known, would establish the fact of the revocation of those decrees, as Mr. Russell seems to flatter himself; because that would be supposing, what is absurd, that the recall of those Decrees was a consequence of that proclamation, whereas the very reverse is the case.

It follows then, that the Proclamation of the 2d of November was founded upon a supposed fact, which, from the insincerity of the French Government, has turned out not to be one. The provisions of that proclamation, favourable to France, thereby becoming invalid, it is evident that those unfavourable to England become equally so.

I trust, therefore, that I am anticipating the views of this Government on this important subject, when I take it for granted that its immediate attention will be directed to the restoration of the most perfect equality in its relations with the two belligerents; for it will not have escaped you, that France is at this moment enjoying a free exclusive intercourse with this country, obtained by unfair means, whilst Great Britain is at the same moment about to be excluded from that intercourse, in consequence of the fallacious promises of the French.

I should hope even, that, to prevent any inconvenience which may arise to the commercial intercourse of His Majesty's Subjects with this country, from the delay that may be requisite for the adjustment by the legislature of this incongruous state of things, some provisional arrangement might be devised for securing to His Majesty's subjects the advantages, of which the law, that is to take effect to-morrow, in consequence of the proclamation of the 2nd of November, will deprive them.

In concluding this representation, on matters so materially affecting the friendly intercourse between the two countries, I need hardly express my firm reliance that you will very shortly be authorised to communicate to me the adoption of measures, by this Government, in every way favourable to the views herein set forth by me on the part of His Majesty's Government.

I have the honour to be, &c.

(Signed) J. P. MORIER.

The Honourable Robert Smith.

No. 12.

Mr. Morier to the Marquess Wellesley.—(Extract.)

March 3d, 1811.

AFTER many days and two nights of most violent debate, the enclosed bill, to enforce the Non-importation Act against Great Britain, was passed, in the House of Representatives, at five o'clock in the morning of the 28th of February.

Party animosity was never, perhaps, before carried to such excess in the discussion of any question; personalities were indulged in between men of opposite parties with great freedom.

(Inclosure, referred to in No. 12.)

Act Supplementary to the Act entitled, (" An Act concerning the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes."

See inclosure in No. 29, set. A.

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13
AMERICA.

CORRESPONDENCE

BETWEEN

THE MARQUESS WELLESLEY,

AND

MR. FOSTER.

APRIL 1811 TO DECEMBER 1811.

C.

PRESENTED TO PARLIAMENT, BY COMMAND OF HIS ROYAL HIGHNESS THE
PRINCE REGENT, FEBRUARY 1813.

PRINTED BY R. G. CLARKE, CANNON-ROW, WESTMINSTER.

LIST OF PAPERS.

C.

No. 1. The Marquess Wellesley to Mr. Foster, dated 10th April 1811.

One Inclosure.

2. Ditto	to	Ditto	Ditto.
3. Ditto	to	Ditto	Ditto.
4. Ditto	to	Ditto	dated 29th April 1811.
5. Ditto	to	Ditto	Ditto.
6. Ditto	to	Ditto	Ditto.
7. Ditto	to	Ditto	dated 26th August 1811.

Four Inclosures.

8. Ditto	to	Ditto	dated 22d October 1811.
9. Ditto	to	Ditto	dated 28th January 1812.

10. Mr. Foster to the Marquess Wellesley, dated 2d July 1811, recd. 28th August 1811.

One Inclosure.

11. Ditto	to	Ditto	dated 7th July 1811,	Ditto.
One Inclosure.				
12. Ditto	to	Ditto	dated 12th July 1811,	Ditto.
Two Inclosures.				
13. Ditto	to	Ditto	dated 18th July 1811,	Ditto.
Three Inclosures.				
14. Ditto	to	Ditto	dated 5th Aug. 1811, recd. 24th Sept. 1811.	
Four Inclosures.				
15. Ditto	to	Ditto	dated 18th Sept. 1811, recd. 25th Oct. 1811.	
Three Inclosures				
16. Ditto	to	Ditto	dated 29th Sept. 1811, recd. 12th Nov. 1811.	
One Inclosure.				
17. Ditto	to	Ditto	dated 5th Nov. 1811, recd. 4th Dec. 1811.	
Five Inclosures.				
18. Ditto	to	Ditto	dated 9th Nov. 1811, recd. 23d Dec. 1811.	
19. Ditto	to	Ditto	dated 12th Nov. 1811,	Ditto.
Four Inclosures.				
20. Ditto	to	Ditto	Ditto	Ditto.
21. Ditto	to	Ditto	dated 21st Nov. 1811, recd. 6th Jan. 1812.	
One Inclosure.				
22. Ditto	to	Ditto	dated 25th Nov. 1811,	Ditto.
23. Ditto	to	Ditto	dated 27th Nov. 1811, recd. 3d Jan. 1812.	
24. Ditto	to	Ditto	dated 11th Dec. 1811, recd. 28th Jan. 1812.	
One Inclosure.				
25. Ditto	to	Ditto	dated 18th Dec. 1811,	Ditto.
One Inclosure.				
26. Ditto	to	Ditto	dated 20th Dec. 1811,	Ditto.
Two Inclosures.				
27. Ditto	to	Ditto	dated 21st Dec. 1811,	Ditto.
Two Inclosures.				

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P A P E R S

RELATING TO

A M E R I C A.

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No. 1.

The Marquess Wellesley to Mr. Foster.

SIR,

Foreign Office, April 10, 1811.

THE correspondence and documents to which you have had access, respecting the several orders passed in Council for the regulation of commerce, in consequence of the hostile Decrees of France, will have apprized you of the general nature of that system of Defence to which His Majesty was compelled to resort, for the purpose of protecting the maritime rights and interests of His dominions against the new description of warfare adopted by the enemy.

But as the question now at issue between Great Britain, France, and America, on this important point, will require you to enter into the fullest explanations with the Government of the United States, His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, has commanded me to direct your attention, in a more particular manner, to the principles on which the Orders in Council were originally founded; to the actual state of the question now depending between this Government and the United States, with relation to the repeal of the Orders in Council: and to the conduct which you are to observe in your intercourse with the American Government on this subject.

The Decree of Berlin was directly and expressly an Act of War, by which France prohibited all nations from trade or intercourse with Great Britain, under peril of confiscation of their ships and merchandise; although France had not the means of imposing an actual blockade, in any degree adequate to such a purpose. The immediate and professed object of this hostile Decree, was, the destruction of all British Commerce, through means entirely un-sanctioned by the Law of Nations, and unauthorised by any received doctrine of legitimate blockade.

This violation of the established Law of Civilized Nations in war, would have justified Great Britain in retaliating upon the enemy, by a similar interdiction of all commerce with France, and with such other countries as might co-operate with France in her system of commercial hostility against Great Britain.

The object of Great Britain was not the destruction of trade, but its preservation, under such regulations as might be compatible with her own security, at the same time that she extended an indulgence to foreign commerce, which strict principle would have entitled her to withhold. The retaliation of Great Britain was not therefore urged to the full extent of her right; our prohibition of French trade was not absolute, but modified; and in return for the absolute prohibition of all trade with Great Britain, we prohibited not all

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commerce with France, but all such commerce with France as should not be carried on through Great Britain. It was evident that this system must prove prejudicial to Neutral Nations: this calamity was foreseen and deeply regretted. But the injury to Neutral Nations arose from the aggression of France, which had compelled Great Britain, in her own defence, to resort to adequate retaliatory measures of war. The operation on the American commerce of those precautions which the conduct of France had rendered indispensable to our security, is, therefore, to be ascribed to the unwarrantable aggression of France, and not to those proceedings on the part of Great Britain which that aggression had rendered necessary and just.

From this view of the origin of the Orders in Council, you will perceive, that the object of our system was, not to crush the trade of the Continent, but to counteract an attempt to crush the British trade; that we have endeavoured to permit the Continent to receive as large a portion of commerce as might be practicable, through Great Britain; and that all our subsequent regulations, and every modification of the system, by new orders or modes of granting or withholding licences, have been calculated for the purpose of encouraging the trade of neutrals, through Great Britain, whenever such encouragement might appear advantageous to the general interests of commerce, and consistent with the public safety of the nation; the preservation of which, is the primary object of all National Councils, and the paramount duty of executive power.

In every discussion which has taken place, we have rested the justification of our Orders in Council, and the continuance of that system of defence, upon the existence of the Decrees of Berlin and Milan, and upon the perseverance of the enemy in the system of hostility which has subverted the rights of neutral commerce on the Continent.

We have therefore uniformly declared, that, whenever France shall have effectually repealed the Decrees of Berlin and Milan, and shall have restored neutral commerce to the condition in which it stood, previously to the promulgation of those Decrees, we shall immediately repeal our Orders in Council.

In contradiction to the statement, on which we have founded the justification of our Orders in Council, France has asserted, that the Decree of Berlin was a measure of just retaliation on her part, occasioned by our previous aggression; and the French Government has insisted, that our system of blockade, as it existed previously to the Decree of Berlin, was a manifest violation of the received law of nations.

In order to understand the purport of this allegation, it is necessary to refer to the articles of the Decree of Berlin, in which are specified, the principles of our system of blockade, which France considers to be new, and to be contrary to the law of nations.

In the 4th and 8th articles it is stated, as a justification of the French Decree; that Great Britain "extends to unfortified towns and commercial ports, to harbours and to the mouths of rivers, those rights of blockade, which, by reason, and by the usage of nations, are applicable only to fortified places, and that the rights of blockade ought to be limited to fortresses, really invested by a sufficient force."

It is added in the same articles that Great Britain "has declared places to be in a state of blockade, before which she has not a single ship of war, and even places which the whole British force would be insufficient to blockade;—entire coasts, and a whole empire."

Neither the practice of Great Britain, nor the law of nations, has ever sanctioned the rule here laid down by France, "that no places excepting fortresses in a complete state of investiture, can be deemed lawfully blockaded by sea." If such a rule were to be admitted, it would become nearly impracticable for Great Britain to attempt the blockade of any port of the Continent; and our submission to this perversion of the law of nations, while it would destroy one of the principal advantages of our naval superiority, would sacrifice the common rights and interests of all maritime States.

In objecting to the practice of Great Britain, in the exercise of the rights of blockade, the Decree of Berlin imputes to us principles which we have never asserted, nor attempted to carry into effect. The Decree does not distinctly specify the particular blockade which France deems exceptionable; but it is evident that the blockade of May 1806 was the principal pretended justification of the Decree of Berlin, although neither the principles on which that blockade was founded, nor its practical operation, afforded any colour for the proceedings of France.

In point of date, the blockade of May 1806 preceded the Berlin Decree, but it was a just and legal blockade, according to the established Law of Nations, because it was intended to be maintained, and was actually maintained, by an adequate force appointed to guard the whole coast described in the notification, and consequently to enforce the blockade.

Great Britain has never attempted to dispute, that, in the ordinary course of the Law of Nations, no blockade can be justifiable or valid, unless it be supported by an adequate force, destined to maintain it, and to expose to hazard all vessels attempting to evade its operation.

The blockade of May 1806 was notified by Mr. Secretary Fox on this clear principle; nor was that blockade announced until he had satisfied himself, by communication with the Admiralty, that the Admiralty possessed the means, and would employ them, of watching the whole coast from Brest to the Elbe, and of effectually enforcing the blockade.

The blockade of May 1806 was, therefore, (according to the doctrine maintained by Great Britain), just and lawful in its origin, because it was supported, both in intention and fact, by an adequate naval force. This was the justification of that blockade, until the period of time when the Orders in Council were issued.

The Orders in Council were founded on a distinct principle—that of defensive retaliation; France had declared a blockade of all the ports and coasts of Great Britain and her dependencies; without assigning, or being able to assign, any force to support that blockade: such an act of the enemy would have justified a declaration of the blockade of the whole coast of France, even without the application of any particular force to that service. Since the promulgation of the Orders in Council, the blockade of May 1806 has been sustained and extended by the more comprehensive principle of defensive retaliation, on which those regulations are founded; but if the Orders in Council should be abrogated, the blockade of May 1806 could not continue, under our construction of the Law of Nations, unless that blockade should be maintained by a due application of an adequate naval force.

America appears to concur with France in asserting that Great Britain was the original aggressor in the attack on neutral rights, and has particularly objected to the blockade of May 1806 as an obvious instance of that aggression on the part of Great Britain.

Although the doctrines of the Berlin Decree, respecting the rights of blockade, are not directly asserted by the American Government, Mr. Pinkney's correspondence would appear to countenance the principle on which those doctrines are founded: the objection directly stated by America against the blockade of May 1806, rests on a supposition that no naval force which Great Britain possessed, or could have employed for such a purpose, could have rendered that blockade effectual; and that therefore it was necessarily irregular, and could not possibly be maintained in conformity to the Law of Nations.

Reviewing the course of this statement, it will appear, that the blockade of May 1806 cannot be deemed contrary to the Law of Nations, either under the objections urged by the French, or under those declared or insinuated by the American Government, because that blockade was maintained by a sufficient naval force; that the Decree of Berlin was not therefore justified, either under the pretexts alledged by France, or under those supported by America; that the Orders in Council were founded on a just principle of defensive retaliation against the violation of the law of nations committed by France in

the Decree of Berlin; that the Blockade of May 1806 is now included in the more extensive operation of the Orders in Council; and, lastly, that the Orders in Council will not be continued beyond the effectual duration of the hostile Decrees of France; nor will the Blockade of May 1806 continue, after the repeal of the Orders in Council, unless we shall think fit to sustain it by the special application of a sufficient naval force: this fact will not be suffered to remain in doubt; and, if the repeal of the Orders in Council should take place, the intentions of this Government, respecting the Blockade of May 1806, will be notified at the same time.

Having thus explained the original foundation of the Orders in Council, it is now my duty to direct your attention to the actual state of the question now depending between this Government and the United States, with relation to the repeal of the Orders in Council.

In the letter from the French Minister for Foreign Affairs to the American Minister at Paris, dated the 5th August 1810, France announced the repeal of the Decrees of Berlin and Milan, in terms of studied ambiguity; which, however, have since been fully explained, by the conduct and language of the French Government. The Government of the United States appears to have construed the French letter of the 5th August 1810, with reference, exclusively, to that part of the letter which states, that "the hostile Decrees are repealed, and that the repeal is to take effect on the 1st November 1810," without adverting to the conditional terms which accompany that declaration.

The American Government has therefore viewed the letter as such an unconditional and unqualified revocation of the Decrees of Berlin and Milan, as required us, under our uniform declarations, to revoke our Orders in Council; and has added a demand for the annulment of the blockade of May 1806.

But the French letter of the 5th August announced, not an immediate or absolute, but a prospective and conditional repeal of the Decrees of Berlin and Milan, the operation of which repeal was to have commenced on the 1st of November 1810; on condition, either that Great Britain should have repealed by that time her Orders in Council, and should also have renounced her principles of blockade, or on condition, (if Great Britain should not have made these concessions to France,) that the Government of the United States should have opened the trade with France, and should have taken measures for asserting the rights of America against Great Britain.

This construction of the letter of the 5th August, has been confirmed in the most unequivocal manner, not only by the subsequent conduct of France towards America, but, expressly, by the formal and personal declaration of Buonaparte himself, in his speech addressed to the Deputies of the Hanse Towns, on the 20th of March 1811, of which a copy is annexed to this dispatch.

It is evident, therefore, that the repeal of the Decrees of Berlin and Milan was contingent upon the performance of one of two conditions: the one required from Great Britain—the other from America, in the event of our not submitting to the condition exacted from us.

The condition exacted from us, required, not merely that we should repeal our Order in Council, or even that we should annul the blockade of 1806; but, that we should renounce our system and principles of blockade, which we contend to be just and legitimate, recognized by the law of nations, and essential to the security of our maritime rights.

To this unwarrantable exaction, Great Britain cannot consent to submit; and as we cannot comply with the condition on which the revocation of the Berlin and Milan Decrees depends, as far as relates to us, their supposed revocation becomes nugatory, unless America shall pursue the unjust course of performing the alternative condition proposed to her by France, and shall proceed to enforce the submission of Great Britain to the inordinate demands of France.

The Government of America appears to be disposed to adopt this course,

and to enforce the Non-Intercourse, or the Non-Importation Law against Great Britain, unless we shall repeal our Orders in Council, and shall annul the blockade of 1806.

In answer to this demand, we have replied, that France has neither actually repealed her hostile Decrees, nor announced any intention of repealing them, on the terms proposed by America to us: nor is it reasonable to suppose, that France would be satisfied with an acquiescence in those terms, unless by the revocation of the blockade of May 1806, we signified an intention of renouncing also our general system and principles of blockade. Without a concession to this extent on the part of Great Britain, no reason exists to justify any other conclusion, than that France would still maintain her Decrees without any relaxation.

In addition to this consideration, it is obvious, that, even if the Decrees of Berlin and Milan should be repealed by France, the subsequent French Decrees (prohibiting not only all commerce in British articles, in every part of the Continent, but all colonial and neutral trade) would leave the most pernicious and destructive parts of the hostile system of France in full violence.

The pretext of municipal right, under which the violence of the enemy is now exercised against neutral commerce in every part of the Continent, will not be admitted by Great Britain, nor can we ever deem the repeal of the French hostile Decrees to be effectual, until neutral commerce shall be restored to the condition in which it stood previously to the commencement of the French system of commercial warfare, as promulgated in the Decrees to which this dispatch refers.

In this state the question rested, at the period of time when Mr. Pinkney stated, that he could not proceed in the discussion, but must refer the result to his own Government.

His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, commands me to direct you to resume the discussion with the Government of the United States at this point, and to endeavour by a temperate appeal to enforce the justice of the arguments stated in this dispatch, and in the correspondence which has passed with Mr. Pinkney.

Events have indisputably proved, that our construction of the nature of the alledged repeal of the Berlin and Milan Decrees was correct; but the American Government appears to have misunderstood the real purport of that transaction; and, under this erroneous construction, to have induced the subjects of America to commence a trade with France, in the expectation that Great Britain must have repealed her Orders in Council, before these commercial adventures could reach France.

Under these circumstances, the condemnation of vessels (which have sailed from America with the expectation of finding the Orders in Council actually repealed) has been stayed until accurate information could be obtained, whether the French regulations had been so effectually and absolutely repealed, as to induce this Government to issue an Order for the release of such vessels.

Although we cannot consent to repeal the Orders in Council in the present state of the question, this Government will not condemn the property of merchants which has been exposed to capture by the error of their own Government, as long as any hope can be entertained of prevailing upon America to correct that error, and to render justice to Great Britain.

With regard to the blockade of 1806, the argument on that subject has been already stated in this dispatch.

That blockade would not be continued after the repeal of the Orders in Council, unless it should be maintained by an adequate force, actually applied to support it, according to the acknowledged law of nations.

But we cannot consent to connect the revocation of the blockade of 1806, with the discussion which has arisen between Great Britain and France, nor to involve ourselves in any concession which shall impair the maritime rights of this country.

Upon the whole matter you will observe, that if America shall absolutely

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enforce her Non-Intercourse or Non-Importation Act against Great Britain, and shall open her trade with France, our Orders in Council must remain in force, and must operate to the interruption of that trade; until France shall repeal her hostile Decrees, absolutely and unconditionally, and shall restore neutral commerce to its former state.

Even in this situation, it is the anxious desire of His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, to avoid a direct rupture with America.

But no extremity can induce His Royal Highness to relinquish the ancient and established rules of maritime war, the maintenance of which is indispensable, not only to the commercial interests, but to the naval strength and to the national honour of Great Britain, as well as to the rights of all maritime states, and to the general prosperity of navigation and commerce throughout the civilized world.

I am, &c.

(Signed)

WELLESLEY.

A. J. Foster, Esq.

(Inclosure, referred to in No. 1.)

Réponse de Buonaparte à la Deputation des Villes de Hambourg, Lubec, et Bremen.

Paris, 20ieme. Mars 1811.

MESSIEURS les Députés des villes anséatiques de Hambourg, Brème et Lubec, vous faisiez partie de l'empire Germanique : votre constitution a fini avec lui. Depuis ce temps, votre situation était incertaine. Je voulais reconstituer vos villes sous une administration indépendante, lorsque les changemens qu'ont produits dans le monde, les nouvelles lois du conseil Britannique, ont rendu ce projet impraticable. Il m'a été impossible de vous donner une administration indépendante, puisque vous ne pouviez plus avoir un pavillon indépendant.

Les Décrets de Berlin et de Milan sont la loi fondamentale de mon Empire. Ils ne cessent d'avoir leur effet que pour les nations qui défendent leur souveraineté et maintiennent la religion de leur pavillon. L'Angleterre est en état de blocus pour les nations qui se soumettent aux arrêts de 1806, parce que les pavillons qui se sont ainsi soumis aux lois Anglaises, sont dénationalisés : ils sont Anglais. Les nations, au contraire, qui ont le sentiment de leur dignité, et qui trouvent, dans leur courage et dans leurs forces, assez de ressources pour méconnaître le blocus par notification, vulgairement appelé blocus de papier, et aborder dans les ports de mon empire, autres que ceux réellement bloqués, en suivant l'usage reconnu et les stipulations du traité d'Utrecht, peuvent communiquer avec l'Angleterre. L'Angleterre n'est pas bloquée pour elles. Les Décrets de Berlin et de Milan, dérivant de la nature des choses, formeront constamment le droit public de mon empire pendant tout le temps que l'Angleterre maintiendra ses Arrêts du Conseil de 1806 et 1807, et violera les stipulations du traité d'Utrecht sur cette matière.

L'Angleterre a pour principe de saisir les marchandises appartenant à son ennemi, sous quelque pavillon qu'elles soient. L'empire a dû admettre le principe de saisir les marchandises Anglaises ou provenant du commerce de l'Angleterre, sur quelque territoire que ce soit. L'Angleterre saisit les voyageurs, les marchands, les charretiers de la nation avec laquelle elle est en guerre, sur toutes les mers. La France a dû saisir les voyageurs, les marchands, les charretiers Anglais sur quelque point du continent qu'ils se trouvent et où elle peut les atteindre ; et si, dans ce système, il y a quelque chose de peu conforme à l'esprit du siècle, c'est l'injustice des nouvelles lois Anglaises qu'il faut en accuser.

Je me suis plu à entrer dans ces développemens avec vous, pour vous faire voir que votre réunion à l'Empire est une suite nécessaire des lois Britanniques de 1806 et 1807, et non l'effet d'aucun calcul ambitieux. Vous trouverez dans mes lois civiles une protection que, dans votre position maritime, vous ne sauriez plus trouver dans les lois politiques. Le commerce maritime, qui a fait votre prospérité, ne peut naître désormais qu'avec ma puissance maritime. Il faut reconquérir à-la-fois les droits des nations, la liberté des mers et la paix générale. Quand j'aurai plus de cent vaisseaux de haut bord, je soumettrai dans peu de campagnes l'Angleterre. Les matelots de vos côtes et les matériaux qui arrivent aux débouchés de vos rivières ne sont nécessaires. La France dans ses anciennes limites ne pouvait construire une marine en temps de guerre : lorsque ses côtes étaient bloquées, elle était réduite à recevoir la loi. Aujourd'hui, par l'accroissement qu'a reçu mon Empire depuis six ans, je puis construire, équiper et armer vingt-cinq vaisseaux de haut bord par an sans que l'état de guerre maritime puisse l'empêcher ou me retarder en rien.

Les comptes qui m'ont été rendus du bon esprit qui anime vos concitoyens, m'ont fait plaisir ; et j'espère, avant peu, avoir à me louer du zèle et de la bravoure de vos matelots.

(Translation of Inclosure in No. 1.)

Answer of Buonaparte to the Address of the Deputation from the Cities of Hamburg and Bremen.

Paris, March 20, 1811.

GENTLEMEN, Deputies of the Hanse Towns of Hamburg, Bremen, and Lubeck. You formed part of the Germanic empire ; your constitution terminated with its existence. Since that time your situation was uncertain. I intended to reconstitute your cities under an independent administration ; when the changes produced in the new world by the new laws of the British Council rendered the project impracticable. It was impossible for me to give you an independent administration, since you could no longer have an independent flag.

The Decrees of Berlin and Milan are the fundamental laws of my empire ; they cease only to have effect as to those nations which defend their sovereignty, and maintain the religion of their flag. England is in a state of blockade as to those nations which submit to the orders of 1806, because the flags thus submitting to the English laws are denationalized—they are English. Those nations, on the contrary, which feel their own dignity, and find in their courage and power sufficient resources to disregard the blockade, and to approach all the ports of my empire, except those under real blockade, according to the known usage and the stipulations of the treaty of Utrecht, may hold communication with England. As to them England is not blockaded. The Decrees of Berlin and Milan, flowing from the nature of things, shall continue to form the public code of my empire, as long as England maintains her Orders in Council of 1806 and 1807, and violates the stipulations of the treaty of Utrecht upon this subject.

England acts upon the principle of seizing the enemy's merchandise, under whatever flag it might be. The empire has been compelled to admit the principle of seizing English merchandise, or proceeding against the commerce of England, in whatever territory it may be. England seizes in every sea the passengers, merchants, and carriers, belonging to the nations she is at war with. France is compelled to seize the English travellers, merchants, and carriers, in whatever part of the continent they may be, and wherever she can reach them : and if in this system there be any thing little consonant to the spirit of the age, it is the injustice of the new English laws that must be charged with it.

I have been pleased to enter into these explanations with you, to convince you that your union with the empire is the necessary result of the British laws of 1806 and 1807, and not the effect of any ambitious calculation. In my civil laws you will find a protection, which, in your maritime position, you can no longer find in the political code. That maritime commerce which constituted your prosperity cannot henceforth be revived but in conjunction with the restoration of my maritime power. The rights of nations, the liberty of the seas, and a general peace, must be conquered at one and the same time. When I shall have upwards of 100 sail of the line, I shall subjugate England in a few campaigns. The seamen of your coasts, and the materials conveyed to the mouths of your rivers, are necessary to my purpose. France within her own limits, could not construct a marine in time of war. When her coasts were blockaded, she was compelled to receive the law. Now, from the increase my empire has received within the last six years, I can build, equip, and arm twenty-five sail of the line yearly, without the slightest delay or obstruction from the existence of a maritime war.

The accounts that have been given me of the good disposition which animates your fellow citizens have afforded me pleasure; and I hope in a short time to have to praise the zeal and bravery of your seamen.

No. 2.

The Marquess Wellesley to Mr. Foster.

SIR,

Foreign Office, April 10, 1811.

IN addition to the instructions contained in my former dispatch of this date, I am commanded by His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, to direct the manner in which you are to proceed with regard to the final adjustment of the differences which have arisen between Great Britain and the United States of America, in the affair of the Chesapeake frigate.

You will take an early opportunity, after your arrival at Washington, of presenting a note, acquainting the American Secretary of State; first, that you have been instructed to repeat to the American Government the prompt disavowal made by His Majesty (and recited in Mr. Erskine's note of the 17th of April 1810, to Mr. Smith), on being apprized of the unauthorised act of the officer in command of His naval forces on the coast of America, whose recall from an highly important and honourable command immediately ensued, as a mark of His Majesty's disapprobation. Secondly, that you are authorised to offer, in addition to that disavowal, on the part of His Royal Highness, in the name and on the behalf of His Majesty, the immediate restoration, as far as circumstances will admit, of the men, who, in consequence of Admiral Berkeley's orders, were forcibly taken out of the Chesapeake, to the vessel from which they were taken; or if that ship should be no longer in commission, to such sea port of the United States as the American Government may name for that purpose. Thirdly, that you are also authorised to offer to the American Government a suitable pecuniary provision for the sufferers in consequence of the attack on the Chesapeake, including the families of those seamen who unfortunately fell in the action, and of the wounded survivors.

If these propositions should meet with an amicable reception from the Government of the United States, you will refer the answer of the American Secretary of State to me, together with your report of the detailed arrangement requisite for carrying the proposed adjustment into effect.

You will be careful not to receive, as the answer of the American Government to the honourable conduct on the part of Great Britain, any expressions in any manner derogatory to the honour of the King, or to the character of the British nation.

I am, &c.

(Signed)

WELLESLEY.

A. J. Foster, Esq.

No. 3.

The Marquess Wellesley to Mr. Foster.

SIR,

Foreign Office, April 10th, 1811.

INFORMATION has been received from various quarters, that, since the date of the President's Proclamation of the 2d of November in the last year, interdicting the entrance of British men of war into American ports, French privateers have been permitted to bring or send into American ports British prizes.

I am commanded by His Royal Highness the Prince Regent to direct you to inquire into the fact of these statements, and in case you shall ascertain that the American Government has permitted the neutrality of the American ports to be violated in this manner, you will immediately present to the American Secretary a distinct representation of the facts, and a remonstrance against the impropriety of such conduct.

You will state that Great Britain can never permit the vessels and property of her subjects to be brought or sent into a neutral port by the ships of the enemy; especially while ships of war bearing British colours are excluded from such neutral port.

The American Government must be sensible, that a continuance of such conduct would be more injurious to British commerce than a state of open war between America and Great Britain; and it is to be hoped, that if the American Government shall in any case have submitted to the violation of the neutral rights of America, the necessity will be felt of affording to His Majesty's subjects every practicable redress, and of reverting without delay to the established rules of maritime law, and common justice, amongst civilized nations.

I am, &c.

(Signed)

WELLESLEY.

A. J. Foster, Esq.

No. 4.

The Marquess Wellesley to Mr. Foster.

SIR,

Foreign Office, April 29th 1811.

I HAVE received the special command of His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, to communicate to you the sentiments which His Royal Highness was pleased, on the part of His Majesty, to express to Mr. Pinkney upon the occasion of his audience of leave.

His Royal Highness signified to Mr. Pinkney the deep regret with which He learnt that Mr. Pinkney conceived himself to be bound by the instructions of his Government to take his departure from this country.

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His Royal Highness informed Mr. Pinkney, that one of the earliest acts of His Government, in the name and on the behalf of His Majesty, was to appoint an Envoy Extraordinary and Minister Plenipotentiary to the Government of the United States; and added, that this appointment had been made in the spirit of amity, and with a view of maintaining the subsisting relations of friendship between the two countries.

His Royal Highness further declared to Mr. Pinkney, that He was most sincerely and anxiously desirous, on the part of His Majesty, to cultivate a good understanding with the United States, by every means consistent with the preservation of the maritime rights and interests of the British Empire.

His Royal Highness particularly desired, that Mr. Pinkney would communicate these declarations to the President of the United States, in the manner which might appear best calculated to satisfy the President, of His Royal Highness's solicitude to facilitate an amicable discussion with the Government of the United States, upon every point of difference which had arisen between the two Governments.

I am commanded to direct you to notify the substance of this dispatch to the Government of the United States, at the earliest period of time after your arrival in America.

I am, &c.
(Signed) WELLESLEY.

A. J. Foster, Esq.

No. 5.

The Marquess Wellesley to Mr. Foster.

SIR,

Foreign Office, April 29, 1811.

THE last dispatches from Mr. Morier having informed this Government that the Government of the United States has actually passed an Act of Non-importation, under circumstances of considerable aggravation and injury towards the commerce of Great Britain; I am commanded to direct you to urge against this unjustifiable proceeding the same course of argument stated in my first dispatch of the 10th instant.

At the time when that dispatch was closed, the intelligence of the actual enactment of the Non-Importation Law in America had not reached this country, but the general tenor of the reasoning detailed in that dispatch appears applicable to the present circumstances of the case, without any alteration.

I am, &c.
(Signed) WELLESLEY.

A. J. Foster, Esq.

No. 6.

The Marquess Wellesley to Mr. Foster.

SIR,

Foreign Office, April 29, 1811.

SINCE the close of my dispatch of the 10th instant, (in which you were informed that the condemnation of certain American vessels, under the circumstances stated in that dispatch, had been stayed) the information received from France and America has removed any doubt, which might have been enter-

tained, with respect to the conduct either of the French or American Governments in relation to the system of commercial warfare described in that dispatch.

It is therefore necessary to apprise you, that, as the considerations which occasioned the condemnation of the American vessels in question to be stayed, no longer exist, you are not authorized to state to the Government of America, that the ordinary proceedings of the Courts in these cases will be further delayed.

I am, &c.

(Signed)

WELLESLEY.

A. J. Foster, Esq.

No. 7.

The Marquess Wellesley to Mr. Foster.

SIR,

Foreign Office, August 26, 1811.

I AM commanded by His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, to transmit to you the accompanying copies of a letter which I have received from the American Chargé d'Affaires at this Court, dated 23d ultimo, on the subject of the alledged repeal of the French Decrees of Berlin and Milan; of my answer to Mr. Smith, dated the 8th instant; and of a second communication, which I made to him on the 14th, in consequence of the intelligence contained in your dispatch of the 7th July, that you had already commenced a negotiation at Washington on the subject of the British Orders in Council.

I inclose likewise for your information and guidance, during the progress of your negotiation, a paper marked D, which contains some observations on the state of the actual relations between this country and America, as affected by the conduct of France towards the trade and property of neutrals.

You will derive such advantage from the considerations stated in this paper, as they may afford, in explaining to the American Government the honourable and just principles by which Great Britain has been guided throughout this discussion.

I am, &c.

(Signed)

WELLESLEY.

A. J. Foster, Esq.

For the First, Second, and Third Inclosures, referred to in No. 7, see Nos. 30, 31, and 32.—Set A.

(Fourth Inclosure, referred to in No. 7, marked D.)

GREAT Britain declined repealing her Orders in Council on two grounds; first, she contended that the Decrees of Berlin and Milan were not absolutely but conditionally revoked by France, the condition being either the repeal of the British Orders and Blockades before the first of November 1810, or the exclusion of the British trade from the American ports by the Act of the United States. Secondly, Great Britain contended, that there was no satisfactory proof given of the entire repeal of the French Decrees, even if either of these conditions were complied with. What has since happened has fully justified both these propositions. American vessels were in all instances seized *subsequently* to the first of November 1810, under the provision of the Berlin and Milan Decrees, and were in no instance released until the Government of France had received intelligence, that one of the conditions on which they

professed to be willing to revoke their Decrees had been complied with, by the exclusion of British ships and British manufactures from the American ports : in other words, the French Government did not repeal, in any degree, the provisions of those Decrees against the United States, until the United States had submitted to the demand of adopting the substance of those very Decrees against Great Britain. It now also is notorious, that at the time when the President of the United States issued his Proclamation, by which America complied with this demand of the French Government, he had no assurance whatever that France had in any degree revoked those Decrees, the revocation of which was the alledged ground of that Proclamation. The Non-Importation Act passed also, subsequently, without any explanation whatever being given on this subject. It was, then, and as far as it appears, it was up to the month of June last, a matter of doubt in America, to what extent these Decrees have been repealed, even if any repeal whatever has taken place. The American Government had either not inquired, or had not then been informed, whether, by this supposed repeal, American vessels may proceed from any other ports than the ports of the United States direct to the ports of France:—whether the cargoes, although neutral and coming from American ports, may consist of any other articles than the produce of the United States ; nay, whether there are not certain articles (the produce of the United States), the importation of which is still to be considered as absolutely prohibited. The American Government also appears to have been ignorant, up to the last advices from thence, whether American vessels are to be permitted to return from France to the United States with any cargoes ; and, if with any, under what conditions such cargoes are to be exported ; whether this trade, so restricted, as it is allowed to be, is to exist at all, except with certain ports in America and in France ; nay, even, whether this trade, so circumscribed as to articles, and confined as to particular ports, will be allowed to exist at all, except under a licence given by the Government of France. It is needless to observe, that in that last doubt is included a question, whether, even now, under all the circumstances of the case, the French Decrees are in any degree whatever revoked ? For, if the French Decrees are to any extent repealed, to that extent at least no licence is necessary:—a licence being given to allow, what, but for that licence, would be prohibited.

Even Mr. Russell, so far as can be collected from his communications to Mr. Smith, *appears*, as late as the 14th of July, to be more able to state to what extent these Decrees are not repealed, than to what extent they are. They are not repealed it seems, so far as to admit British manufactures in American ships, although such cargoes should be neutral property. All that he can attempt to state as certain, is, that the Decrees are not to be enforced on the high seas ; but this is perfectly consistent with all the provisions of these Decrees, being in full power in the ports of France, if they have any article on board except the produce of the United States ; if they have any but the permitted articles of that produce ; if they come from any but the enumerated ports ; if they attempt to come from those ports, and with the permitted articles, without the special sanction of a licence granted by the Government of France ; if they have touched at a British port, or have been boarded by a British cruiser. Can this be called a revocation of the French Decrees ? Is this placing neutral commerce on the footing it was previously to their publication ? Is the submission of the United States to these provisions such a resistance to the arbitrary proceedings of France against all neutral rights as to render the British Orders in Council on that ground no longer necessary ? Is Great Britain to repeal her Orders against the trade of France, because the United States has adopted the substance of the French Decrees against the trade of her own people ?

Even if the conduct of the American Government had been different ; if they had not issued their Proclamation, and passed their Non-Importation Act against the trade of this country, under the alledged revocation of the French Decrees, at a time when the American Government had no assurance that such a revocation had taken place : and are even now uncertain whether they

be not partially, and in special instances only, suspended; still it would have been necessary for the American Government to have made a more precise representation of what had been done by France, before they made this act of France the ground for applying to Great Britain for the repeal of her Orders. If the French Decrees have been either in part, or in the whole, repealed, there must exist some instrument by which that repeal has been effected: and, if there be any fair dealing in this transaction, no reason can be given for not producing it. The letter from the French Minister to General Armstrong, so much relied upon by Mr. Pinkney, ought never to have been produced as an official record of that revocation: and the American Minister cannot now refer to it, as that letter asserted the absolute and entire repeal of those Decrees on the 1st November 1810, when it is now admitted by Mr. Russell himself, in his last letter to Mr. Smith, that they are only partially repealed, and it is evident that they continued in force after the 1st of November.

But, if these Decrees are only partially repealed, it is the more necessary to see the instrument by which that repeal is effected, in order to judge to what extent they are repealed. No such instrument has hitherto been produced. There is every reason to believe that the American Government were not in June last in possession of it. It is almost certain that Mr. Russell was not in possession of it on the 14th of July of this year; for he would otherwise have stated, in his communication to Mr. Smith, at least the substance of it. Nay, it is doubtful whether the Directors of Customs at Bourdeaux, where its provisions are to be observed, have hitherto ever seen it. For if it be true, that this repeal goes at least thus far, (as is contended both by Mr. Russell and Mr. Smith) that American vessels are not liable to seizure only on the ground of having been boarded by British cruizers, or touching at a British port; how could it have happened, that the Grace Ann Green, and New Orleans Packet, were seized on their entrance into Bourdeaux, since Mr. Smith states expressly they were only seized for these very aggressions of the Berlin and Milan Decrees? How came they not to be released until Mr. Russell had made his remonstrances to the French Government in consequence of such seizure? How came these officers not to have been reprimanded for giving so unauthorized an interruption to a permitted trade, if they were in possession of that instrument which revoked that part of the Decrees under which they were seized?

It is essential to remark, that the Declaration of the British Government, was not an engagement to repeal the Orders in Council, on the simple condition, that the Decrees of Berlin and Milan were revoked. It was not difficult to foresee, that other Decrees, as injurious to the British commerce, and to the rights of neutral nations, might be subsequently issued, and that these might remain, and be in force, after the original Decrees had been withdrawn. It was therefore expressly added, as another condition, that the neutral trade must be restored to the state in which it was previous to the promulgation of those Decrees. Is it possible for any one to contend, that this second condition has been complied with? Has the first, in truth, been complied with? Have the Berlin and Milan Decrees been even partially repealed? Have they not, on the contrary, been declared to be fundamental laws of the French empire, since the 1st of November 1810, the alledged period of their revocation? The conduct of France towards the American trade, as far as it has been represented by the American Ministers, and taking it in its most favourable point of view, amounts to no more than this, that, in consequence of the American Congress having, in the Non-importation Acts, adopted the substance of the French Decrees, by excluding the British flag from their ports, and by prohibiting the importation of British produce and manufacture, France has been prevailed upon to suspend the operation of the Rambouillet Decree, in certain special cases, at the intercession of the American Minister, leaving the Decrees of Berlin and Milan unrepealed, and the trade of neutral nations subject to the molestations to which, since the promulgation of the Decrees, that trade has been exposed.

What is asked, therefore, of the British Government, is this—that, because they declared that the Orders in Council should be revoked whenever

[CLASS C.]

E

the Berlin and Milan Decrees were repealed, and the trade of neutral nations was placed on the footing on which it was previous to their promulgation, therefore they are now bound to revoke these Orders, because the operations of another Decree have been in some special instances suspended, although neither of the conditions have been complied with, the fulfilment of both of which was declared to be necessary, previous to the revocation of the Orders in Council.

France cannot be justified by America, by the argument that her Decrees are now only enforced upon the Continent, while those of Great Britain are executed upon the high seas. There is less chance of escape from the French Custom-houses in the ports of the Continent, than from the British cruizers at sea, and France has only been able effectually to execute in this manner her laws against neutral trade.

To none of these usurpations, destructive, as they must have been viewed even in America, of the rights of neutrals—have the United States ventured to offer any opposition. No remonstrance, no intercession, no arguments have come from America, to plead the cause of neutrals, in the cases of Hamburgh, Oldenburg, Sweden, &c. all of which have been incorporated into the French Empire, or forced into a war with England.

It has not indeed, as yet, been satisfactorily proved, that any instructions have been given to the French cruizers, not to molest neutral vessels, which are bound to a British port, or shall be proceeding from one. That instructions were given to capture vessels of that description, is evident, for it can now no longer be denied, that the Berlin and Milan Decrees were so executed, and if this manner of executing them is no longer to be practised, some instruction to that effect must exist; but it is worthy of remark, that no copy of such instructions has been produced, nor has any copy of any Decree appeared which contained such a provision.

It may further be observed, that the prohibition of British ships of War to enter the American ports, at the time when the ships of the other Belligerent are allowed to enter those ports, might perhaps justify Great Britain in asserting, that whatever reasons she may have for repealing or modifying her Orders in Council, so as to lessen, or entirely remove, the pressure now unavoidably laid on the trade of neutral nations, yet she might refuse to enter into any discussion, on that subject, with the United States, until, either by the revocation of this prohibition, or the placing all the Belligerents under the same prohibition, America shall cease to violate the duties of a neutral nation.

No. 8.

The Marquess Wellesley to Mr. Foster.

SIR,

Foreign-Office, October 22, 1811.

Your dispatches to the 18th of July have been received, and laid before His Royal Highness the Prince Regent.

I am commanded by His Royal Highness, acting in the name and on the behalf of His Majesty, to signify His gracious approbation of your conduct in the discharge of the important trust committed to you.

It does not appear to be necessary, as far as relates to the discussions which have arisen respecting the Orders in Council, to make any material alteration, at present, in the instructions which you have received from me, under His Royal Highness's commands.

I am commanded, however, particularly to direct your attention to the following considerations:

It appears that British ships of war are excluded from American ports, while the ships of war belonging to France are freely admitted.

It is to be presumed, that the re-establishment of certain parts of the Non-intercourse Act is directed against Great Britain, in retaliation, on the part of America, of the Orders in Council, by which the entrance of American ships, among other neutral ships, into the French ports, is prohibited. Without examining the justice of any such retaliatory system, on the part of America, it may be observed, that the British Orders in Council, which are purely of a commercial character, do not warrant the exclusion of British ships of war from American ports.

The Orders in Council do not in any degree affect the ships of war belonging to the United States. Such ships may freely enter the ports of France, directly from America. They may proceed from British ports to the ports of France, and from the ports of France to this country: unless some strong ground existed to prove that these national ships were employed to convey tribute to the Government of France, or were actually converted into trading ships, Great Britain would not be disposed to molest them on their voyage.

On a retaliatory system, directed against our Orders in Council, the United States may exclude British manufactures and produce, while those of the enemy are freely admitted: such regulations indeed, cannot be considered as acts of amity, but they are certainly not violations of neutrality.

But the exclusion of British ships of war rests on a different principle.

The exclusion, by a neutral power, of all ships of war belonging to one belligerent party, while the ships of war of the other are protected by the harbours of that neutral power, has always been considered as a direct violation of the principles and duty of neutrality. This doctrine, the United States appeared to acknowledge, when, in consequence of the affair of the Chesapeake, British ships of war were first excluded from the American ports. The Government of America then distinctly disclaimed any desire of giving any preference "in favour of the ships of war of one belligerent to those of another." That exclusion was declared to be only temporary, as a precautionary measure, to prevent a recurrence of similar conflicts between our respective ships of war. If it should be said, that this exclusion is still precautionary, because no satisfaction has yet been given on the subject of the Chesapeake, it may be remarked, that no event has occurred to justify the renewal of a precaution which the American Government, during the last year, deemed it safe and honourable to discontinue. It may further be observed, that the American Government must be apprized, that you are ready to offer the most ample satisfaction respecting the affair of the Chesapeake.

You will therefore state to the American Government, that, before America can justly claim the rights of a neutral nation, she ought to fulfil the established duties belonging to that character. Great Britain would be fully justified in declining all explanation, either of her Orders in Council, or her intentions regarding those regulations, so long as this part of the Non-intercourse Act, respecting British ships of war, shall remain unrepealed, while French ships shall be freely admitted into the American ports. This point will require your serious and immediate attention, and you will not fail to bring the subject under the early and distinct notice of the American Government.

The instructions with which you have already been furnished, by the command of the Prince Regent, and the whole tenor of my correspondence with Mr. Pinkney, demonstrate the expediency of requiring an authentic copy of the instrument, by which the French Decrees may be stated to have been revoked.

You will therefore require from the American Government a copy of the instrument by which the French Decrees are stated to be revoked, before you proceed to any definitive discussion, founded on the presumption of such a revocation.

The American Government cannot offer any reasonable excuse against the production of such a copy, if that document actually exists. Many considerations concur to dissuade Great Britain from adopting any decided measures, according to the views of America, until such a document shall have

been produced. The French Decrees were formally promulgated. Their revocation should be equally formal. If they are only partially revoked, it becomes more necessary to examine a document, which will exhibit the precise extent of the alledged revocation. The extent of the alledged revocation cannot, by any other means, be ascertained with precision. The principal point at issue between the two Governments, is, in fact, the precise operation and extent of the Act or Acts of the French Government, by which the Decrees are said to have been repealed. On this question, doubts have been stated by Great Britain, and certainly have been entertained in America. The conduct of Great Britain must be regulated by the solution of those doubts, and by the real practical extent of the revocation of the French Decrees. It is therefore indispensable, that a copy of the instrument of revocation should be formally produced. In addition to these observations it must be remarked, that the revocation of these Decrees has already been notified; that the notification has proved to be false in substance, and completely fraudulent in a practical effect, and yet Great Britain has been required to repeal her Orders in Council, in consequence of a transaction so imperfect and fallacious in all its circumstances. In such a state of affairs, it is just and reasonable that Great Britain should refuse to become a party to any arrangement, which shall not rest upon an authentic regular production of a copy of the act of the French Government, by which the hostile Decrees have been repealed. If, to these representations, the American Government should reply, that Great Britain has been accustomed to notify the repeal of blockades by letters to the Ministers resident at this Court, and that such notification is considered to be sufficient; you will observe, that these notifications are founded on regular and formal Orders, the production of which, if required, Great Britain would readily grant, and which, in no instance, has been refused. These notifications are addressed from one nation, in amity, to another in the same relation. No corresponding abandonment of commercial or other restrictions is required from that nation, to whose Minister such a notification is made; he is on the spot; he can ascertain the truth of the facts stated: if any doubts should exist, he can obtain explanation, if necessary, directly from the Government, under whose authority the notification is made, and he may act upon the notification, or not, according to his own judgment and discretion.

On the other hand, the notifications now under discussion, are made by the enemy; Great Britain is called upon to act in consequence of a notification from the French Government, in a state of war, and is required to forego her measures of self-defence against the enemy, upon the mere faith of his own declarations. No resident Minister in France, can ascertain, on the part of Great Britain, the truth of the alledged revocation: no satisfactory means exist of obtaining explanations of those ambiguities in which the notification appears to be studiously involved: In this case, it is the peculiar interest of the enemy to deceive, and it is well known to be his practice to attempt fraud, whenever fraud promises subsidiary aid to violence, and treachery can facilitate the use of force.

The admission of some ships into the ports of France, contrary to the provisions of the French Decrees, and the release of others, are no proofs that the Decrees are revoked. These vessels may have entered under special licences: they may have been released by special favour: at the utmost, it is evidence only of a temporary suspension of the Decrees. If the Decrees are revoked, *bonâ fide*, and are really no longer in existence, some instrument must exist by which that revocation has been effected. If the production of such an instrument be pertinaciously refused, or studiously evaded, the inducements for requiring this satisfaction, on our part, are greatly strengthened by the suspicions which must arise from the colour of the whole transaction.

Since the preceding part of this dispatch was written, your dispatches to the 13th of August have been received, and laid before His Royal Highness the Prince Regent.

I am commanded by His Royal Highness to signify to you His Royal

Highness's entire approbation of the prompt, able, and energetic manner in which you have replied (in your note of the 26th of July to Mr. Monroe,) to the unfounded insinuations contained in that Minister's answer to your former communications. His Royal Highness fully approves of the terms in which you have stated the question of the blockade of May 1806, (which indeed applied solely to neutral vessels passing from one enemy's port to another,) as well as of your statement of the undue partiality and injustice of the American Government, in still persisting to consider the commerce of their citizens as affected exclusively by the British restrictions.

The letter of the Minister of Justice, dated the 25th of December last (to which your note to Mr. Monroe refers), states, that the American ships, detained after the first of November 1810, are to be "released (not in consequence of the repeal of the French Decrees, but) in consequence of the American non-importation law." The conclusion to be drawn from this statement is, that the Non-Importation Act cannot be justified by America, as a consequence of the revocation of the French Decrees: the Non-Importation Act seems, in fact, to have been the cause of a partial relaxation of the French Decrees.

Nothing has happened since that period of time, in any degree to weaken the argument (as stated by you conformably to your instructions) demonstrating that the French Decrees do still operate very injuriously against neutral trade: the only relief granted to the trade of America, in mitigation of the most strict and rigorous effect of the French Decrees, still continues to be, the arbitrary admission of certain American vessels, directly from America, into the ports of France, on conditions and under regulations, which might be allowed by France, even if America and France were in a positive state of hostility.

His Royal Highness anxiously hopes that the American Congress will detect the pernicious designs of the enemy against the commerce of the world, and against the rights of all neutral states, however those designs may be disguised, for the purpose of deluding America into the fatal consequences of a war with Great Britain. The Prince Regent also trusts that the moderation and temper which this Government has manifested towards the United States, throughout the whole progress of this protracted discussion, will be justly appreciated by the American people.

You will assure the American Government that His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, is anxious to interpret all their transactions in the most favourable and amicable sense:—But, His Royal Highness cannot view with indifference, the unmerited restrictions placed by the operation of the Non-Importation Act, upon the commerce of His Majesty's subjects; nor the unfriendly preference, manifested towards the ships of war of His Majesty's enemy, while His Majesty's ships of war are excluded from every port belonging to the United States, although His Majesty's Officers have been most carefully instructed to avoid every occasion of disagreement with those of America.

Nor can His Royal Highness consent to resign, at the request of America, or by compromise with the enemy, any of those great maritime rights, which Great Britain has maintained as the bulwarks of her national security and glory, and which she has exercised, not more for her own interests and honour, than for the general protection of trade, and for the freedom and independence of all commercial States.

I am, &c.

(Signed)

WELLESLEY.

A. J. Foster, Esq.

No. 9.

The Marquess Wellesley to Mr. Foster.

SIR,

Foreign Office, January 23th, 1812.

YOUR dispatches to the 29th November, of last year, have been submitted to His Royal Highness the Prince Regent.

His Royal Highness has received with considerable regret the communications which they contain with respect to the conduct of the American Government, and to the tone of the conversation which has passed between you and Mr. Monroe.

The intimation made to you by Mr. Monroe, of the intention of the American Government to arm their merchant ships, and to send their trade under convoy, announces a system which, if carried into practice, must occasion acts of hostile violence.

Although these several modes of arming are represented to be intended merely for defensive purposes, and not with any view to offensive operations, it is impossible to consider this system otherwise, than as a plan of defence for the merchant traders of America, against the search of British cruizers.

The general right of search cannot be surrendered by Great Britain, consistently with the security of her maritime power; and, as this principle cannot be unknown to the American Government, the intention of pursuing measures which must compel Great Britain to assert that important right by force, cannot be viewed without the most serious concern.

Notwithstanding the appearances of the unfriendly disposition of the American Government, His Royal Highness the Prince Regent, feels so sincere a desire for the preservation of peace and amity with America, that He determined not to alter the conciliatory expressions of the Speech, delivered by His Royal Highness's command to both Houses of Parliament; and His Royal Highness now commands, that the discussions with America should be continued, in the same spirit of moderation and friendship, which has hitherto been observed by Great Britain.

The conversation which has passed between you and Mr. Monroe, affords an opportunity for renewing the most explicit declarations of the disposition and sentiments of this Government towards the United States; and the unfounded report stated by Mr. Monroe, respecting the conduct of His Majesty's Ambassador in Spain, requires a distinct repetition of the amicable views of His Royal Highness the Prince Regent.

You will, therefore, in the name, and by the authority of His Royal Highness, not only assure the Government of the United States, that the report of Mr. Wellesley's supposed conduct, in instigating Spain to a war with America, is utterly unfounded; but, that His Royal Highness would consider the event of war with America, as a most serious calamity to this country.

The injury which this calamity would not fail to inflict upon America, would aggravate the regret which this Government would feel for such an occurrence. Various ancient relations of mutual kindness render the welfare of America an object of our sincere good wishes. The direct interests of Great Britain are also essentially concerned in the prosperity of that country; from our intercourse with which important advantages have accrued to our commerce.

These sentiments are stated for no other purpose than to prove the sincerity of our desire for the amity of America, in the preservation of which our own interests are materially involved.

With these views we continue to deprecate a war with America, although the conduct of the Government of the United States now exposes us to injuries and losses, nearly as great as we might probably incur by actual war.

The system of Non-Intercourse adopted by America, the admission not

only of French merchantmen, but of French ships of war into the ports of America, while British ships of both descriptions are excluded, approach to measures of actual hostility.

But even under these provocations, the Prince Regent commands me to repeat the expression of His anxiety to avoid war with America, if it be possible to preserve the relations of amity, without surrendering the national honour of Great Britain, and those principles of maritime right and national law, which are essential to the existence of this empire.

The direct exposure which Mr. Monroe made to you, of the determination of the American Government to resort to the measures which I have already described, was accompanied by an intimation of his apprehension, that such a communication might be construed as a menace by this Government.

His Royal Highness the Prince Regent, however, has received this communication in the spirit in which Mr. Monroe professed it to be intended; and His Royal Highness therefore confidently expects, and claims an equally favourable construction of the declaration, which you are hereby directed to make in His Royal Highness's name.

In this expectation, His Royal Highness commands you to acquaint the Government of the United States, that Great Britain cannot relinquish her right of search upon the high seas, and cannot recognise any power in neutral States, to exempt their merchantment from that right of search, either by arming trading vessels, or by affording them the protection of convoy.

The distinct expression of our opinion on matters of such importance, so far from being an indication of any unfriendly disposition, is necessary for the purpose of preventing a state of affairs which might probably lead to acts of force.

The Prince Regent views the intention of America to adopt this system of armament, with additional concern, because it bears the appearance of a direct acquiescence, on the part of America, in the demand of France, for war against Great Britain.

In the note of the French Minister, respecting the pretended revocation of the Decrees of Berlin and Milan, it was required of America, that she should cause her flag to be respected, in order to entitle herself to the benefit of that conditional repeal, which was not to be made absolute, until America should have fulfilled the condition exacted from her.

It is justly to be apprehended, that the proposed armament may be resorted to by America in compliance with this exaction.

Adverting to the instructions which you have already received, you will observe, that the alternative conditions required by the French Government were—from Great Britain the revocation of the Orders in Council, and the renunciation of our principles of blockade, which were described to be *new*; or, from America, the assertion of the independence of her flag.

With the condition required from Great Britain, it must have been evident to France and to America, that we could not comply, since the principles of blockade which we were required to renounce as *new*, were in fact coeval with the foundation of the British Monarchy, recognised by the established law of nations, and inseparable from the security of our naval power.

The alternative condition required from the American Government, has been sufficiently explained by the French Government. The French Government has declared, that every ship is to be considered as *denationalized* (or deprived of the national rights of the State to which it belongs) if it shall submit to be visited or searched by a belligerent. This appears to be the true construction of the manner in which America is required to assert the independence of her flag; nor can it be supposed that the French Government will be satisfied with the compliance of America, unless it shall extend to such measures as shall be calculated to prevent, according to the French expression, the ships of America from being denationalized; or, in other words, to preclude the exercise of our right of search on the high seas.

Under this view of the question, it is evident, that the pretended revocation

of the Decrees of Berlin and Milan, was, in fact, a fresh enactment and confirmation of those Decrees.

The Prince Regent directs me to point your particular attention to these considerations, and to desire that, in stating them to Mr. Monroe, you will explain how strongly they serve to illustrate the apprehensions entertained by this Government, that the armament of the American trade should occasion such acts of violence as may tend to produce the calamity of war between the two countries.

In remarking to Mr. Monroe the circumstances of difference between the conduct of the French and British Governments towards America, you will not fail to draw the necessary conclusions from the following circumstances :

The American Non-Intercourse Act was applied equally to Great Britain and to France. The French Government retaliated by the Decree of Rambouillet; and you are fully acquainted with the seizures which have been made of American ships and property in France, since the enactment of that Decree.

Although the Non-Intercourse Act has been re-established by America against Great Britain, while it is repealed with respect to France, and while French ships of war are admitted into the ports of America, and those of Great Britain are excluded, Great Britain has continued to permit without obstruction, the entrance of American vessels into her ports.

The general tenour of our conduct, indeed, sufficiently manifests a real solicitude to avoid the extremity of war, so long as our most essential rights and interests shall remain in security; nor has this Government suffered the repeated provocations which it has received in points of inferior (although considerable) importance, to divert its attention from the plain and direct course which it has pursued throughout these protracted discussions.

The circumstances of contradiction which you have justly observed in the language of the American Ministers on several occasions, have been particularly noticed by the Prince Regent.

His Royal Highness commands me to direct you to persevere in the same moderate, but firm conduct and language, which your instructions have uniformly prescribed to you, and He trusts that, by this prudent and undeviating course, the variable councils of the American Government may ultimately be led towards a just sense of the peril to which they will expose their country; if, in compliance with the unjust demands of France, they should involve America in a war with Great Britain.

I am, &c.

(Signed)

WELLESLEY.

A. J. Foster, Esq.

No. 10.

Mr. Foster to the Marquess Wellesley.—(Extract.)

Washington, July 2d, 1811.

I DELIVERED into Mr. Monroe's hands, in obedience to the instructions of His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, as contained in your Lordship's dispatch of the 29th of April, a note, of which the inclosed is a copy, recapitulating the sentiments which His Royal Highness was pleased to express to Mr. Pinkney, on the occasion of his audience of leave, and requested his particular attention to the conciliatory nature of those expressions. Mr. Monroe observed, that from the delay which had occurred in the appointment of a Minister to this country, doubts had been entertained here as to whether it were His Majesty's in-

ention to appoint one at all, and that Mr. Pinkney had been informed that his functions would be suspended if no nomination took place before a certain period, which period having elapsed without satisfaction on this point, his powers in consequence remained suspended, and considerable time must have intervened before they could be renewed. He was sure, he said, the President would be pleased at the friendly expressions of His Royal Highness towards the United States, and promised an answer to my note.

(Inclosure, referred to in No. 10.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, July 2, 1811.

I HAVE the honour to inform you that I have received the special commands of His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, to make an early communication to you of the sentiments which His Royal Highness was pleased, on the part of His Majesty, to express to Mr. Pinkney, upon the occasion of his audience of leave.

His Royal Highness signified to Mr. Pinkney, the deep regret with which He learnt that Mr. Pinkney conceived himself to be bound by the instructions of his Government to take his departure from England.

His Royal Highness informed Mr. Pinkney that one of the earliest acts of His Government, in the name and on the behalf of His Majesty, was to appoint an Envoy Extraordinary and Minister Plenipotentiary to the Government of the United States; and added, that this appointment had been in the spirit of amity, and with a view of maintaining the subsisting relations of friendship between the two countries.

His Royal Highness further declared to Mr. Pinkney that He was most sincerely and anxiously desirous, on the part of His Majesty, to cultivate a good understanding with the United States, by every means consistent with the preservation of the maritime rights and interests of the British empire.

His Royal Highness particularly desired that Mr. Pinkney would communicate these declarations to the United States in the manner which might appear best calculated to satisfy the President of His Royal Highness's solicitude to facilitate an amicable discussion with the Government of the United States, upon every point of difference which had arisen between the two Governments.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

No. 11.

Mr. Foster to the Marquess Wellesley. — Extract.

Washington, July 7, 1811.

I HAVE already had three conferences with the American Secretary of State, on the subject of His Majesty's Orders in Council, the French Decrees, and the question now at issue between Great Britain, America, and France.

In my second interview I shewed Mr. Monroe my instructions, as your Lordship authorised me to do, and I assured him that we could not consider the Berlin and Milan Decrees as repealed, nor ever acknowledge the distinction drawn by America between what she called their maritime and municipal operation; I urged the injustice of the American act of Non-Importation,

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and pressed for its suspension, but Mr. Monroe positively assured me this could not be; that the only condition on which the President was empowered to suspend it was not fulfilled by Great Britain, namely, that of revoking the Orders in Council, and the blockade of May 1806. However, his attention was particularly caught by that part of my instructions, wherein it is expressly stated, that the operation of that blockade would cease whenever the Orders in Council are revoked, unless otherwise notified by His Majesty's Government; and mentioning his wish to make notes from my instructions, for the information of the President, I considered it as more proper and regular that I should give him in a letter upon the subject, merely recapitulating the state of the question, and adding some appeal to the justice of this country for a revocation of their law; and this I accordingly did in that letter, a copy of which I have the honour to transmit inclosed. I conceived that I should thus afford an opportunity for this Government's reconsidering their line of conduct, and at length, though late, seeing their interest in following a new system: at any rate, considering the state in which Mr. Pinkney left the discussion, it seemed of some moment to reanimate it.

The United States' Government are pleased to consider the objections made to the most obnoxious parts of the Berlin and Milan Decrees, in their effects upon neutral ships in French ports, or ports within reach of French power, as now brought forward for the first time. They maintain, as before, that those Decrees are repealed, at least in as far as they give America a right to complain.

I have replied, that if there were any appearance of novelty in the statement which I had made, it must be owing to the United States' Government not seeing the question in its true point of view, and was not owing to any new pretension of Great Britain, for that the British Government had repeatedly and expressly declared, that for His Majesty's Orders in Council to be revoked, the Berlin and Milan Decrees must be effectually repealed; and neutral commerce be restored to that state in which it stood previously to their promulgation; and this the Government of the United States knew not to be the case.

(Inclosure, referred to in No. 11.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, July 3, 1811.

I HAVE had the honour of stating to you verbally the system of defence to which His Majesty has been compelled to resort, for the purpose of protecting the maritime rights and interests of His dominions, against the new description of warfare that has been adopted by His enemies. I have presented to you the grounds upon which His Majesty finds Himself still obliged to continue that system, and I conceive that I shall best meet your wishes, as expressed to me this morning, if, in a more formal shape, I should lay before you the whole extent of the question, as it appears to His Majesty's Government to exist between Great Britain and America.

I beg leave to call your attention, Sir, to the principles on which His Majesty's Orders in Council were originally founded. The Decree of Berlin was directly and expressly an act of war, by which France prohibited all nations from trade or intercourse with Great Britain, under peril of confiscation of their ships and merchandise; although France had not the means of imposing an actual blockade in any degree adequate to such a purpose. The immediate and professed object of this hostile Decree was the destruction of all British commerce, through means entirely unsanctioned by the law of nations, and unauthorised by any received doctrine of legitimate blockade.

This violation of the established law of civilized nations in war would have justified Great Britain in retaliating upon the enemy, by a similar interdiction

of all commerce with France, and with such other countries as might co-operate with France in her system of commercial hostility against Great Britain.

The object of Great Britain was not, however, the destruction of trade, but its preservation under such regulations as might be compatible with her own security, at the same time that she extended an indulgence to foreign commerce, which strict principles would have entitled her to withhold. The retaliation of Great Britain was not, therefore, urged to the full extent of her right; our prohibition of French trade was not absolute, but modified; and in return for the absolute prohibition of all trade with Great Britain, we prohibited not all commerce with France, but all such commerce with France as should not be carried on through Great Britain.

It was evident that this system must prove prejudicial to neutral nations: this calamity was foreseen, and deeply regretted. But the injury to the neutral nation arose from the aggression of France, which had compelled Great Britain in her own defence to resort to adequate retaliatory measures of war. The operation on the American commerce of those precautions which the conduct of France had rendered indispensable to our security, is therefore to be ascribed to the unwarrantable aggression of France, and not to those proceedings on the part of Great Britain, which that aggression had rendered necessary and just.

The object of our system was merely to counteract an attempt to crush the British trade. Great Britain endeavoured to permit the continent to receive as large a portion of commerce as might be practicable through Great Britain; and all her subsequent regulations, and every modification of her system, by new orders or modes of granting or withholding licences, have been calculated for the purpose of encouraging the trade of neutrals through Great Britain, whenever such encouragement might appear advantageous to the general interests of commerce, and consistent with the public safety of the nation.

The justification of His Majesty's Orders in Council, and the continuance of that defence, have always been rested upon the existence of the Decrees of Berlin and Milan, and on the perseverance of the enemy in the system of hostility which has subverted the rights of neutral commerce on the continent; and it has always been declared on the part of His Majesty's Government, that whenever France should have effectually repealed the Decrees of Berlin and Milan, and should have restored neutral commerce to the condition in which it stood previously to the promulgation of those Decrees, we should immediately repeal our Orders in Council.

France has asserted that the Decree of Berlin was a measure of just retaliation on her part, occasioned by our previous aggression; and the French Government has insisted that our system of blockade, as it existed previously to the Decree of Berlin, was a manifest violation of the received law of nations: we must, therefore, Sir, refer to the articles of the Berlin Decree to find the principles of our system of blockade, which France considers to be new, and contrary to the law of nations.

By the 4th and 8th articles, it is stated, as a justification of the French Decree, that Great Britain "extends to unfortified towns and commercial ports, to harbours, and to the mouths of rivers, those rights of blockade which, by reason and the usage of nations, are applicable only to fortified places; and that the rights of blockade ought to be limited to fortresses really invested by a sufficient force."

It is added in the same articles, that Great Britain "has declared places to be in a state of blockade, before which she has not a single ship of war, and even places which the whole British force would be insufficient to blockade—entire coasts and a whole empire."

Neither the practice of Great Britain nor the law of nations has ever sanctioned the rule now laid down by France, that no place, excepting fortresses in a complete state of investiture, can be deemed lawfully blockaded by sea.

If such a rule were to be admitted, it would become nearly impracticable for Great Britain to attempt the blockade of any port of the continent; and

our submission to this perversion of the law of nations, while it would destroy one of the principal advantages of our naval superiority, would sacrifice the common rights and interests of all maritime states.

It was evident that the blockade of May 1806, was the principal pretended justification of the Decree of Berlin, though neither the principles on which that blockade was founded, nor its practical operation, afforded any colour for the proceedings of France.

In point of date, the blockade of May 1806, preceded the Berlin Decree; but it was a just and legal blockade, according to the established law of nations, because it was intended to be maintained, and was actually maintained, by an adequate force appointed to guard the whole coast described in the notification, and consequently to enforce the blockade.

Great Britain has never attempted to dispute, that, in the ordinary course of the law of nations, no blockade can be justifiable or valid unless it be supported by an adequate force, destined to maintain it, and to expose to hazard all vessels attempting to evade its operation. The blockade of May 1806, was notified by Mr. Secretary Fox, on this clear principle, nor was that blockade announced until he had satisfied himself, by a communication with His Majesty's Board of Admiralty, that the Admiralty possessed the means, and would employ them, of watching the whole coast from Brest to the Elbe, and of effectually enforcing the blockade.

The blockade of May 1806, was therefore (according to the doctrine maintained by Great Britain,) just and lawful in its origin, because it was supported both in intention and fact by an adequate naval force. This was the justification of that blockade, until the period of time when the Orders in Council were issued.

The Orders in Council were founded on a distinct principle; that of defensive retaliation. France had declared a blockade of all the ports and coasts of Great Britain, and her dependencies, without assigning or being able to assign any force to support that blockade. Such an act of the enemy would have justified a declaration of the blockade of the whole coast of France, even without the application of any particular force to that service. Since the promulgation of the Orders in Council, the blockade of May 1806, has been sustained and extended, by the more comprehensive system of defensive retaliation, on which those regulations are founded. But if the Orders in Council should be abrogated, the blockade of May 1806, could not continue under our construction of the law of nations, unless that blockade should be maintained by a due application of an adequate naval force.

America appears to concur with France, in asserting that Great Britain was the original aggressor in the attack on neutral rights, and has particularly objected to the blockade of May 1806, as an obvious instance of that aggression on the part of Great Britain.

Although the doctrines of the Berlin Decree, respecting the rights of blockade, are not directly asserted by the American Government, Mr. Pinkney's correspondence would appear to countenance the principles on which those doctrines are founded. The objection directly stated by America against the blockade of May 1806, rests on a supposition that no naval force which Great Britain possessed, or could have employed for such a purpose, could have rendered that blockade effectual, and that therefore it was necessarily irregular, and could not possibly be maintained in conformity to the law of nations.

Reviewing the course of this statement, it will appear, that the blockade of May 1806, cannot be deemed contrary to the law of nations, either under the objections urged by the French, or under those declared, or insinuated by the American Government, because that blockade was maintained by a sufficient naval force; that the Decree of Berlin was not, therefore, justified, either under the pretexts alledged by France, or under those supported by America; that the Orders in Council were founded on a just principle of defensive retaliation, against the violation of the law of nations, committed by France in the Decree of Berlin; that the blockade of May 1806, is now

included in the more extensive operation of the Orders in Council ; and lastly, that the Orders in Council will not be continued beyond the effectual duration of the hostile Decrees of France, nor will the blockade of May 1806, continue after the repeal of the Orders in Council, unless His Majesty's Government shall think fit to sustain it by the special application of a sufficient naval force. This fact will not be suffered to remain in doubt, and if the repeal of the Orders in Council should take place, the intention of His Majesty's Government, respecting the blockade of May 1806, will be notified at the same time.

I need not, Sir, recapitulate to you the sentiments of His Majesty's Government, so often repeated, on the subject of the French Minister's note to General Armstrong, dated the 5th of last August. The studied ambiguity of that note has since been amply explained by the conduct and language of the Government of France, of which one of the most remarkable instances is to be found in the speech of the Chief of the French Government on the 20th of last March, to certain deputies from the free cities of Hamburgh, Bremen, and Lubeck, wherein he declares that the Berlin and Milan Decrees shall be the public code of France, as long as England maintains her Orders in Council of 1806 and 1807. Thus pronouncing, as plainly as language will admit, that the system of violence and injustice, of which he is the founder, will be maintained by him until the defensive measures of retaliation to which they gave rise, on the part of Great Britain, shall be abandoned.

If other proofs were necessary to show the continued existence of those obnoxious Decrees, they may be discovered in the imperial edict dated at Fontainebleau, on October 19, 1810; that monstrous production of violence, in which they are made the basis of a system of general and unexampled tyranny and oppression over all countries subject to, allied with, or within reach of the power of France: in the report of the French Minister for Foreign Affairs dated last December, and in the letter of the French Minister of Justice to the President of the Council of Prizes. To this letter, Sir, I would wish particularly to invite your attention; the date is the 25th of December; the authority it comes from most unquestionable; and you will there find, Sir, the Duke of Massa, in giving his instructions to the council of prizes, in consequence of the President of the United States Proclamation of November 3d, most cautiously avoiding to assert that the French Decrees were repealed, and ascribing, not to such repeal, but to the ambiguous passage which he quotes at length from Mr. Champagny's letter of August 5th, the new attitude taken by America; and you will also find an evidence in the same letter, of the continued capture of American ships after November 1st, and under the Berlin and Milan Decrees, having been contemplated by the French Government; since there is a special direction given for judgment on such ships being suspended in consequence of the American proclamation, and for their being kept as pledges for its enforcement.

Can then, Sir, those Decrees be said to have been repealed at the period when the proclamation of the President of the United States appeared, or when America enforced her non-importation act against Great Britain? Are they so at this moment? To the first question the state papers which I have referred to, appear to give a sufficient answer: for even supposing that the repeal had since taken place, it is clear that on November 3d, there was no question as to that not being then the case; the capture of the ship *New Orleans Packet*, seized at Bourdeaux, and of *The Grace Ann Green*, seized at or carried into Marseilles, being cases arising under the French Decrees of Berlin and Milan, as is very evident. Great Britain might, therefore, complain of being treated with injustice by America, even supposing that the conduct of France had since been unequivocal.

America contends, that the French Decrees are revoked, as it respects her ships upon the high seas; and you, Sir, inform me that the only two American ships taken under their maritime operation, as you are pleased to term it, since November 1st, have been restored; but may not they have been restored in consequence of the satisfaction felt in France at the passing of the Non-Importation Act in the American Congress, an event so little to be expected;

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for otherwise, why, having been captured in direct contradiction to the supposed revocation, why were they not restored immediately?

The fears of the French navy, however, prevent many cases of the kind occurring on the ocean under the Decrees of Berlin and Milan; but the most obnoxious and destructive parts of those Decrees are exercised with full violence, not only in the ports of France, but in those of all other countries to which France thinks she can commit injustice with impunity.

Great Britain has a right to complain that neutral nations should overlook the very worst features of these extraordinary acts, and should suffer their trade to be made a medium of an unprecedented, violent and monstrous system of attack upon her resources; a species of warfare unattempted by any civilized nation before the present period. Not only has America suffered her trade to be moulded into the means of annoyance to Great Britain, under the provisions of the French Decrees, but, construing those Decrees as extinct, upon a deceitful declaration of the French cabinet, she has enforced her Non-Importation act against Great Britain.

Under these circumstances I am instructed by my Government to urge to that of the United States, the injustice of thus enforcing that act against His Majesty's dominions; and I cannot but hope that a spirit of justice will induce the United States' Government to re-consider the line of conduct they have pursued, and at least to re-establish their former state of strict neutrality.

I have only to add, Sir, that on my part I shall ever be ready to meet you on any opening which may seem to afford a prospect of restoring complete harmony between the two countries, and that it will, at all times, give me the greatest satisfaction to treat with you on the important concerns so interesting to both.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

No. 12.

Mr. Foster to the Marquess Wellesley.—(Extract.)

Washington, July 12th, 1811.

To prevent any possible misapprehensions arising here from some general observations contained in the first part of my note to Mr. Monroe, relative to His Majesty's Orders in Council, I have thought it right to send the explanatory letter, of which the inclosed is a copy, to that Minister, adverting to the Order of April 1809, as having superseded those of 1807.

I have the honour to transmit to your Lordship a copy of Mr. Monroe's answer to my note, expressing His Royal Highness's sentiments, in the name and on the behalf of His Majesty, on Mr. Pinkney's departure from London.

(First Inclosure, referred to in No. 12.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, July 11th, 1811.

IN consequence of our conversation of yesterday, and the observations which you made respecting that part of my letter to you of the 3d instant, wherein I have alluded to the principle on which His Majesty's Orders in

Council were originally founded, I think it right to explain myself, in order to prevent any possible mistake, as to the present situation of neutral trade with His Majesty's enemies.

It will only be necessary for me to repeat, what has already long since been announced to the American Government, namely, that His Majesty's Order in Council of April 26, 1809, superseded those of November 1807, and relieved the system of retaliation, adopted by His Majesty against his enemies, from what was considered in this country as the most objectionable part of it—the option given to neutrals to trade with the enemies of Great Britain, through British ports, on payment of a transit duty.

This explanation, Sir, will, I trust, be sufficient to do away any impression that you may have received to the contrary, from my observations respecting the effects which His Majesty's Orders in Council originally had on the trade of neutral nations. Those observations were merely meant as preliminary to a consideration of the question now at issue between the two countries.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Second Inclosure, referred to in No. 12.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, July 6th, 1811.

I HAVE had the honour to receive your letter of the 2d instant, in which you express the regret of His Royal Highness the Prince Regent at the departure of the American Minister from Great Britain, and state that it was one of the first acts of His government to appoint an Envoy Extraordinary and Minister Plenipotentiary to the Government of the United States, with a view of maintaining the subsisting relations of friendship between the two countries, and that He was solicitous to facilitate an amicable discussion with the Government of the United States, upon every point of difference which had arisen between the two Governments.

I am instructed by the President to acknowledge to you the great satisfaction which he has derived from the communication which you have made of the disposition of His Royal Highness the Prince Regent to cultivate friendship with the United States, and to assure you that the prompt and friendly measure which He adopted, by the appointment of an Envoy Extraordinary and Minister Plenipotentiary to this country, to maintain the relations of friendship, and facilitate an amicable discussion on every point of difference that had arisen between the two Governments, is considered as a favourable and interesting proof of that disposition.

I am also instructed by the President to state his ready disposition to meet, in a similar spirit, these frank and friendly assurances of the Prince Regent, and that nothing will be wanting on his part, consistent with the rights of the United States, that may be necessary to promote the re-establishment in all respects of that good understanding between the two countries, which he considers to be highly important to the interests of both.

Permit me to add, Sir, that if, as the organ of my Government, I can be in any degree instrumental, in concert with you, in promoting such a result, I shall derive from it a very great and sincere satisfaction.

I have the honour to be, &c.

(Signed)

JAMES MONROE.

A. J. Foster, Esq.

No. 13.

*Mr. Foster to the Marquess Wellesley.—(Extract.)**Washington, July 18th, 1811.*

I SENT the note to Mr. Monroe, of which I have the honour to inclose a copy. I have expressed in it His Royal Highness's anxiety to know what were the intentions of the President relative to the Non-Importation Act. I have insisted that the French Decrees still continued in full-force, and stated that, to the regret of His Royal Highness, His Majesty's Orders in Council were also in consequence necessarily continued. His Royal Highness's views of the President's Proclamation, and His surprise at the passing of the Act of Congress are adverted to, and I have left it to be understood, that if the American ships seized under the Orders in Council were condemned, the American Government alone was to blame.

Mr. Monroe sent me a note on the following day, demanding explanations as to the extent in which His Majesty's Government expected the French Decrees to be repealed, of which I have the honour to transmit a copy inclosed, as well as of my answer.

(First Inclosure, referred to in No. 13.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, July 14, 1811.

His Majesty's packet-boat having been so long detained, and a fortnight having elapsed since my arrival at this capital, His Royal Highness the Prince Regent, will necessarily expect that I should have to transmit to His Royal Highness some official communication as to the line of conduct the American Government mean to pursue. I trust you will excuse me, therefore, Sir, if, without pressing for a detailed answer to my note of the 3d instant, I anxiously desire to know from you what is the President's determination with respect to suspending the operation of the late act of Congress, prohibiting all importation from the British dominions.

There have been repeated avowals lately made by the Government of France, that the Decrees of Berlin and Milan were still in full force, and the acts of that Government have corresponded with these avowals.

The measures of retaliation pursued by Great Britain against those decrees, are, consequently, to the great regret of His Royal Highness, still necessarily continued.

I have had the honour to state to you the light in which His Royal Highness the Prince Regent viewed the Proclamation of the President of last November, and the surprise with which He learnt the subsequent measures of Congress against the British trade.

American ships seized under His Majesty's Orders in Council, even after that Proclamation appeared, were not immediately condemned, because it was believed that the insidious professions of France might have led the American Government and the merchants of America into an erroneous construction of the intentions of France.

But when the veil was thrown aside, and the French Ruler himself avowed the continued existence of his invariable system, it was not expected by His Royal Highness that America would have refused to retrace the steps she had taken.

Fresh proofs have since occurred of the resolution of the French Government to cast away all consideration of the rights of nations, in the unprecedented warfare they have adopted.

America, however, still persists in her injurious measures against the commerce of Great Britain, and His Royal Highness has, in consequence, been obliged to look to means of retaliation against these measures, which His Royal Highness cannot but consider as most unjustifiable.

How desirable would it not be, Sir, if a stop could be put to any material progress in such a system of retaliation, which, from step to step, may lead to the most unfriendly situation between the two countries.

His Majesty's Government will necessarily be guided in a great degree by the contents of my first dispatches, as to the conduct they must adopt towards America.

Allow me, then, Sir, to repeat my request, to learn from you, whether I may not convey to His Royal Highness, what I know would be most grateful to His Royal Highness's feelings, namely, the hope that He may be enabled, by the speedy return of America from her unfriendly attitude towards Great Britain, to forget altogether that He ever was obliged to have any other object in view besides that of endeavouring to promote the best understanding possible between the two countries.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Second Inclosure, referred to in No. 13.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, July 15th, 1811.

THE reasoning and scope of the two letters I have had the honour to receive from you, dated on the 3d and 14th instant, rest essentially on a denial that the French Decrees of Berlin and Milan are repealed. These Decrees comprise regulations essentially different in their principles; some of them violating the neutral rights of the United States, others operating against Great Britain without any such violation.

In order to understand distinctly and fully the tenor of your communications, you will pardon the request I have the honour to make, of an explanation of the precise extent in which a repeal of the French Decrees is made a condition of the repeal of the British Orders; and particularly whether the condition embraces the seizure of vessels and merchandize entering French ports in contravention of French regulations, as well as the capture on the high seas of neutral vessels and their cargoes, on the mere allegation, that they are bound to, or from British ports; or that they have on board British productions or manufactures

I have the honour to be, &c.

(Signed)

JAS. MONROE.

A. J. Foster, Esq.

(Third Inclosure, referred to in No. 13.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, July 16, 1811.

I HAD the honour to receive the letter which you addressed to me under yesterday's date, requesting an explanation from me, in consequence of my
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letters of the 3d and 14th instant, of the precise extent in which a repeal of the French Decrees is, by His Majesty's Government, made a condition of the repeal of the British Orders, and particularly whether the condition embraces the seizure of vessels and merchandize entering French ports in contravention of French regulations, as well as the capture on the high seas of neutral vessels and their cargoes, on the mere allegation that they are bound to, or from British ports, or that they have on board British productions or manufactures; as also stating, that in your view of the French Decrees, they comprise regulations essentially different in their principles; some of them violating the neutral rights of the United States, others operating against Great Britain without any such violation.

You will permit me, Sir, for the purpose of answering your questions as clearly and concisely as possible, to bring into view the French Decrees themselves, together with the official declarations of the French Minister, which accompanied them.

In the body of those Decrees, and in the declarations alluded to, you will find, Sir, express avowals that the principles on which they were founded, and the provisions contained in them, are wholly new, unprecedented, and in direct contradiction to all ideas of justice, and the principles and usages of all civilized nations.

The French Government did not pretend to say that any one of the regulations contained in those Decrees was a regulation which France had ever been in the previous practice of.

They were consequently to be considered, and were indeed allowed by France herself to be, all of them, parts of a new system of warfare, unauthorized by the established laws of nations,

It is in this light, in which France herself has placed her Decrees, that Great Britain is obliged to consider them.

The submission of neutrals to any regulations made by France, authorized by the law of nations and practised in former wars, will never be complained of by Great Britain: but the regulations of the Berlin and Milan Decrees do, and are declared to, violate the laws of nations and the rights of neutrals, for the purpose of attacking, through them, the resources of Great Britain. The Ruler of France has drawn no distinction between any of them, nor has he declared the cessation of any one of them, in the speech which he so lately addressed to the deputation from the free Imperial Hanse Towns, which was, on the contrary, a confirmation of them all.

Not until the French Decrees, therefore, shall be effectually repealed, and thereby neutral commerce be restored to the situation in which it stood previously to their promulgation, can His Royal Highness conceive Himself justified, consistently with what He owes to the safety and honour of Great Britain, in foregoing the just measures of retaliation which His Majesty in His defence was necessitated to adopt against them.

I trust, Sir, that this explanation in answer to your inquiries will be considered by you sufficiently satisfactory; should you require any further, and which it may be in my power to give, I shall with the greatest cheerfulness afford it.

I sincerely hope, however, that no further delay will be thought necessary by the President, in restoring the relations of amity which should ever subsist between America and Great Britain; as the delusions attempted by the Government of France have now been made manifest, and the perfidious plans of its Ruler exposed, by which, while he adds to, and aggravates his system of violence against neutral trade, he endeavours to throw all the odium of his acts upon Great Britain, with a view to engender discord between the neutral countries and the only power which stands up as a bulwark against his efforts at universal tyranny and oppression.

Excuse me, Sir, if I express my wish, as early as possible to dispatch His Majesty's packet-boat with the result of our communications, as His Majesty's Government will necessarily be most anxious to hear from me. Any

short period of time, however, which may appear to you to be reasonable, I will not hesitate to detain her.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

No. 14.

Mr. Foster to the Marquess Wellesley.—(Extract.)

Washington, August 5th, 1811.

I AM at length able to transmit to your Lordship, Mr. Monroe's answer to my several notes on the important question at issue between Great Britain, France, and America.

Your Lordship will see that this Government have endeavoured to draw a conclusion from my statement, made, in compliance with their desires, relative to the blockade of May 1806, in no manner warranted by my expressions. I have, therefore, in my reply (a copy of which is inclosed) altogether, and unequivocally disclaimed it.

Finding that no remark was made on the prospective retaliation alluded to in my letter of the 14th ultimo, and that I got no direct reply to my question, as to the President's determination in regard to suspending the operation of the Non-Importation Law; I again repeated my demand on this latter point, in a letter of which I have the honour to transmit a copy, as well as of the answer to it, in which Mr. Monroe assures me, that the President has no power to suspend the act without His Majesty's Orders in Council were revoked.

(First Inclosure, referred to in No. 14.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, July 23, 1811.

I HAVE submitted to the President your several letters of the 3d, 14th and 16th of this month, relative to the British Orders in Council and the Blockade of May 1806, and I have now the honour to communicate to you his sentiments on the view which you have presented of those measures of your Government.

It was hoped that your communication would have led to an immediate accommodation of the differences subsisting between our countries, on the ground on which alone it is possible to meet you. It is regretted that you have confined yourself to a vindication of the measures which produced some of them.

The United States are as little disposed now as heretofore to enter into the question concerning the priority of aggression by the two belligerents, which could not be justified by either, by the priority of those of the other. But as you bring forward that plea in support of the Orders in Council, I must be permitted to remark, that you have yourself furnished a conclusive answer to it, by admitting that the blockade of May 1806, which was prior to the first of the French Decrees, would not be legal, unless supported through the whole extent of the coast, from the Elbe to Brest, by an adequate naval force. That such a naval force was actually applied, and continued in the requisite strictness until that blockade was comprised in and superseded by the Orders of

November of the following year, or even until the French Decree of the same year, will not, I presume, be alledged.

But waving this question of priority, can it be seen, without both surprise and regret, that it is still contended that the Orders in Council are justified by the principle of retaliation, and that this principle is strengthened by the inability of France to enforce her Decrees. A retaliation is in its name, and its essential character, a returning a like for like. Is the deadly blow of the Orders in Council against one half of our commerce, a return of like for like to an empty threat in the French Decrees against the other half? It may be a vindictive hostility, as far as its effect falls on the enemy; but when falling on a neutral, who on no pretext can be liable for more than the measure of injury received through such neutral, it would not be a retaliation, but a positive wrong, by the plea on which it is founded.

It is to be further remarked, that the Orders in Council went even beyond the plea, such as this has appeared to be, in extending its operation against the trade of the United States with nations which, like Russia, had not adopted the French Decrees, and with all nations which had merely excluded the British flag; an exclusion resulting, as matter of course, with respect to whatever nation Great Britain might happen to be at war.

I am far from viewing the modification originally contained in these Orders, which permits neutrals to prosecute their trade with the continent, through Great Britain, in the favourable light in which you represent it. It is impossible to proceed to notice the effect of this modification, without expressing our astonishment at the extravagance of the political pretensions set up by it: a pretension which is incompatible with the sovereignty and independence of other States. In a commercial view it is not less objectionable, as it cannot fail to prove destructive to neutral commerce. As an enemy, Great Britain cannot trade with France. Nor does France permit a neutral to come into her ports from Great Britain. The attempt of Great Britain to force our trade through her ports, would have, therefore, the commercial effect of depriving the United States altogether of the market of her enemy for their productions, and of destroying their value in her market by a surcharge of it. Heretofore it has been the usage of belligerent nations to carry on their trade through the intervention of neutrals, and this had the beneficial effect of extending to the former advantages of peace, while suffering under the calamities of war. To reverse the rule, and to extend to nations at peace the calamities of war, is a change as novel and extraordinary as it is at variance with justice and public law.

Against this unjust system, the United States entered, at an early period, their solemn protest. They considered it their duty to evince to the world their high disapprobation of it, and they have done so by such acts as were deemed most consistent with the rights and the policy of the nation. Remote from the contentious scene which desolates Europe, it has been their uniform object to avoid becoming a party to the war. With this view they have endeavoured to cultivate friendship with both parties, by a system of conduct which ought to have produced that effect. They have done justice to each party in every transaction in which they have been separately engaged with it. They have observed the impartiality which was due to both as belligerents standing on equal ground, having in no instance given a preference to either at the expense of the other. They have borne too, with equal indulgence, injuries from both, being willing, while it was possible, to impute them to casualties inseparable from a state of war, and not to a deliberate intention to violate their rights. And even when that intention could not be mistaken, they have not lost sight of the ultimate object of their policy. In the measures to which they have been compelled to resort, they have in all respects maintained pacific relations with both parties. The alternative presented by their late acts was offered equally to both, and could operate on neither no longer than it should persevere in its aggressions on our neutral rights. The Embargo and Non-Intercourse were pacific measures. The regulations which they imposed on our trade were such as any nation might adopt in peace or war without of-

fence to any other nation. The Non-Importation is of the same character; and if it makes a distinction at this time in its operation between the belligerents, it necessarily results from a compliance of one with the offer made to both, and which is still open to the compliance of the other.

In the discussions which have taken place on the subject of the Orders in Council, and blockade of May 1806, the British Government, in conformity to the principle on which the Orders in Council are said to be founded, declared that they should cease to operate as soon as France revoked her edicts. It was stated also, that the British Government would proceed *pari passu* with the Government of France in the revocation of her edicts. I will proceed to show that the obligation on Great Britain to revoke her Orders is complete, according to her own engagement, and that the revocation ought not to be longer delayed.

By the Act of May 1st 1810, it is provided, that if either Great Britain or France should cease to violate the neutral commerce of the United States, which fact the President should declare by Proclamation, and the other party should not within three months thereafter revoke or modify its edicts in like manner, that then certain sections in a former act, interdicting the commercial intercourse between the United States and Great Britain and France, and their dependencies, should, from and after the expiration of three months from the date of the Proclamation, be revived and have full force against the former, its colonies and dependencies, and against all articles the growth, produce, or manufacture of the same.

The violations of neutral commerce, alluded to in this act, were such as were committed on the high seas. It was in the trade between the United States and the British dominions that France had violated the neutral rights of the United States by her blockading edicts. It was in the trade with France and her allies that Great Britain had committed similar violations by similar edicts. It was the revocation of these edicts, so far as they committed such violations, which the United States had in view, when they passed the law of May 1, 1810.

On the 5th August 1810, the French Minister of Foreign Affairs addressed a note to the Minister Plenipotentiary of the United States at Paris, informing him that the Decrees of Berlin and Milan were revoked, the revocation to take effect on the 1st November following: that the measure had been taken by his Government in confidence that the British Government would revoke its edicts, and renounce its new principles of blockade, or that the United States would cause their rights to be respected, conformably to the act of May 1, 1810.

This measure of the French Government was founded on the law of May 1, 1810, as is expressly declared in the letter of the Duke of Cadore, announcing it. The edicts of Great Britain, the revocation of which was expected by France, were those alluded to in that act; and the means by which the United States should cause their rights to be respected, in case Great Britain should not revoke her edicts, were likewise to be found in the same act. They consisted merely in the enforcement of the Non-Importation Act against Great Britain, in that unexpected and improbable contingency.

The letter of the 5th August, which announced the revocation of the French Decrees, was communicated to this Government; in consequence of which, the President issued a proclamation on the 2d November, the day after that on which the repeal of the French Decrees was to take effect, in which he declared, that all the restrictions imposed by the act of May 1, 1810, should cease and be discontinued, in relation to France and her dependencies. It was a necessary consequence of this proclamation also, that if Great Britain did not revoke her edicts, the Non-Importation would operate against her at the end of three months. This actually took place. She declined the revocation, and on the 2d February last, that law took effect. In confirmation of the proclamation, an Act of Congress was passed on the 2d March following.

Great Britain still declines to revoke her edicts, on the pretension that France has not revoked hers. Under that impression she infers that the

United States have done her injustice, by carrying into effect the Non-Importation against her.

The United States maintain, that France has revoked her edicts, so far as they violated their neutral rights, and were contemplated by the law of May 1st 1810, and have on that ground particularly claimed, and do expect of Great Britain a similar revocation.

The revocation, announced officially by the French Minister of Foreign Affairs to the Minister Plenipotentiary of the United States at Paris, on the 5th August 1810, was in itself sufficient to justify the claim of the United States to a correspondent measure from Great Britain. She had declared, that she would proceed *pari passu* in the repeal with France, and the day being fixed when the repeal of the French Decrees should take effect, it was reasonable to conclude that Great Britain would fix the same day for the repeal of her Orders. Had this been done, the proclamation of the President would have announced the revocation of the edicts of both powers at the same time: and in consequence thereof, the Non-Importation would have gone into operation against neither. Such too is the natural course of proceeding in transactions between independent states; and such the conduct which they generally observe towards each other. In all compacts between nations, it is the duty of each to perform what it stipulates, and to presume on the good faith of the other, for a like performance. The United States having made a proposal to both belligerents, were bound to accept a compliance from either, and it was no objection to the French compliance, that it was in a form to take effect at a future day, that being a form not unusual in laws and other public acts. Even when nations are at war and make peace, this obligation of mutual confidence exists, and must be respected. In treaties of commerce, by which their future intercourse is to be governed, the obligation is the same. If distrust and jealousy are allowed to prevail, the moral tie, which binds nations together in all their relations, in war as well as in peace, is broken.

What would Great Britain have hazarded by a prompt compliance in the manner suggested? She had declared that she had adopted the restraints imposed by her Orders in Council with reluctance, because of their distressing effect on neutral powers. Here then was a favourable opportunity presented to her, to withdraw from that measure with honour, be the conduct of France afterwards what it might. Had Great Britain revoked her Orders, and France failed to fulfil her engagement, she would have gained credit at the expence of France, and could have sustained no injury by it, because the failure of France to maintain her faith, would have replaced Great Britain at the point from which she had departed. To say that a disappointed reliance on the good faith of her enemy, would have reproached her foresight, would be to set a higher value on that quality, than on consistency and good faith, and would sacrifice, to a mere suspicion towards an enemy, the plain obligations of justice towards a friendly power.

Great Britain has declined proceeding *pari passu* with France in the revocation of their respective edicts. She has held aloof, and claims of the United States proof not only that France has revoked her Decrees, but that she continues to act in conformity with the revocation. To show that the repeal is respected, it is deemed sufficient to state that not one vessel has been condemned by French tribunals, on the principle of those decrees, since the 1st November last. The New Orleans Packet from Gibraltar to Bourdeaux, was detained, but never condemned. The Grace Ann Green, from the same British port, to Marseilles, was likewise detained, but afterwards delivered up unconditionally to the owner, as was such part of the cargo of the New Orleans Packet, as consisted of the produce of the United States. Both these vessels proceeding from a British port, carried cargoes, some articles of which in each, were prohibited by the laws of France, or admissible by the sanction of the Government alone. It does not appear that their detention was imputable to any other cause. If imputable to the circumstance of passing from a British to a French port, or on account of any part of their cargoes, it affords no cause of complaint to Great Britain, as a violation of our neutral rights. No such

cause would be afforded, in even a case of condemnation. The right of complaint would have belonged to the United States.

In denying the revocation of the Decrees, so far as it is a proper subject of discussion between us, it might reasonably be expected that you would produce some examples of vessels taken at sea, in voyages to British ports, or on their return home, and condemned under them by a French tribunal. None such has been afforded by you. None such are known to this Government.

You urge only, as an evidence that the decrees are not repealed, the speech of the Emperor of France to the deputies from the free cities of Hamburg, Bremen, and Lubeck; the imperial edict dated at Fontainebleau, on the 19th of October 1810; the report of the French Minister of Foreign Affairs, dated in December last; and a letter of the Minister of Justice to the President of the Council of Prizes of the 25th of that month.

There is nothing in the first of these papers incompatible with the revocation of the Decrees, in respect to the United States. It is distinctly declared by the Emperor in his speech to the deputies of the Hanse-towns, that the blockade of the British islands shall cease when the British blockades cease; and that the French blockade shall cease in favour of those nations in whose favour Great Britain revokes hers, or who support their rights against her pretensions, as France admits the United States will do by enforcing the Non-Importation Act. The same sentiment is expressed in the report of the Minister of Foreign Affairs. The Decree of Fontainebleau having no effect on the high seas, cannot be brought into this discussion. It evidently has no connection with neutral rights.

The letter from the Minister of Justice to the President of the Council of Prizes, is of a different character. It relates in direct terms to this subject, but not in the sense in which you understand it. After reciting the note from the Duke of Cadore of the 5th of August last, to the American Minister at Paris, which announced the repeal of the French Decrees, and the Proclamation of the President in consequence of it, it states that all causes arising under those Decrees after the 1st of November, which were then before the court, or might afterwards be brought before it, should not be judged by the principles of the Decrees, but be suspended until the 2d of February, when the United States having fulfilled their engagement, the captures should be declared void, and the vessels and their cargoes delivered up to their owners. This paper appears to afford an unequivocal evidence of the revocation of the Decrees, so far as relates to the United States. By instructing the French tribunal to make no decision till the 2d February, and then to restore the property to the owners on a particular event which has happened, all cause of doubt on that point seems to be removed. The United States may justly complain of delay in the restitution of the property, but that is an injury which affects them only. Great Britain has no right to complain of it. She was interested only in the revocation of the Decrees by which neutral rights would be secured from future violation; or if she had been interested in the delay, it would have afforded no pretext for more than a delay in repealing her Orders till the 2d of February. From that day, at furthest, the French Decrees would cease. At the same day ought her Orders to have ceased. I might add to this statement that every communication received from the French Government, either through our representatives there, or its representatives here, are in accord with the actual repeal of the Berlin and Milan Decrees, in relation to the neutral commerce of the United States. But it will suffice to remark, that the best and only adequate evidence of their ceasing to operate, is the defect of evidence that they do operate. It is a case where the want of proof against the fulfilment of a pledge, is proof of the fulfilment. Every case occurring, to which, if the Decrees were in force, they would be applied, and to which they are not applied, is a proof they are not in force. And if these proofs have not been more multiplied, I need not remind you, that a cause is to be found in the numerous captures under your Orders in Council, which continue to evince the rigor with which they are enforced, after a failure of the basis on which they were supposed to rest.

But Great Britain contends, as appears by your last letter, that she ought not to revoke her Orders in Council, until the commerce of the continent is restored to the state on which it stood before the Berlin and Milan Decrees issued; until the French Decrees are repealed, not only as to the United States, but so as to permit Great Britain to trade with the continent. Is it then meant that Great Britain should be allowed to trade with all the powers with whom she traded at that epoch? Since that time France has extended her conquests to the North, and raised enemies against Great Britain, where she then had friends. Is it proposed to trade with them notwithstanding the change in their situation? Between the enemies of one date and those of another, no discrimination can be made. There is none in reason, nor can there be any of right, in practice. Or do you maintain the general principle, and contend that Great Britain ought to trade with France and her allies? Between enemies their can be no commerce. The vessels of either taken by the other are liable to confiscation, and are always confiscated. The number of enemies, or extent of country which they occupy, cannot affect the question. The laws of war govern the relation which subsists between them, which, especially in the circumstance under consideration, are invariable. They were the same in times the most remote that they now are. Even if peace had taken place between Great Britain and the powers of the continent, she could not trade with them without their consent. Or does Great Britain contend, that the United States, as a neutral power, ought to open the continent to her commerce, on such terms as she may designate? On what principle can she set up such a claim? No example of it can be found in the history of past wars, nor is it founded in any recognized principle of war, or in any semblance of reason or right. The United States could not maintain such a claim in their own favour, though neutral. When advanced in favour of an enemy, it would be the most preposterous and extravagant claim ever heard of. Every power, when not restrained by treaty, has a right to regulate its trade with other nations, in such manner as it finds most consistent with its interest; to admit, and on its own conditions, or to prohibit the importation of such articles as are necessary to supply the wants, or encourage the industry of its people. In what light would Great Britain view an application from the United States, for the repeal, of right, of any act of her Parliament, which prohibited the importation of any article from the United States, such as their fish or their oil? Or which claimed the diminution of the duty on any other, such as their tobacco, on which so great a revenue is raised? In what light would she view a similar application, made at the instance of France, for the importation into England, of any article the growth or manufacture of that power, which it was the policy of the British Government to prohibit?

If delays have taken place in the restitution of the American property, and in placing the American commerce in the ports of France on a fair and satisfactory basis, they involve questions, as has already been observed, in which the United States alone are interested. As they do not violate the revocation by France, of her Edicts, they cannot impair the obligation of Great Britain to revoke hers, nor change the epoch at which the revocation ought to have taken place. Had that duly followed, it is more than probable that those circumstances, irrelative as they are, which have excited doubt in the British Government, of the practical revocation of the French Decrees, might not have occurred.

Every view which can be taken of this subject, increases the painful surprise at the innovations on all the principles and usages heretofore observed; which are so unreservedly contended for in your letters of the 3d and 16th instant, and which, if persisted in by your Government, present such an obstacle to the wishes of the United States, for a removal of the difficulties which have been connected with the Orders in Council. It is the interest of belligerents to mitigate the calamities of war, and neutral powers possess ample means to promote that object, provided they sustain with impartiality and firmness the dignity of their station. If belligerents expect advantage from

neutrals, they should leave them in the full enjoyment of their rights. The present war has been oppressive beyond example, by its duration, and by the desolation which it has spread throughout Europe. It is highly important that it should assume, at least, a milder character. By the revocation of the French Edicts, so far as they respected the neutral commerce of the United States, some advance is made towards that most desirable and consoling result. Let Great Britain follow the example. The ground thus gained will soon be enlarged by the concurring and pressing interests of all parties, and whatever is gained will accrue to the advantage of afflicted humanity.

I proceed to notice another part of your letter of the 3d instant, which is viewed in a more favourable light. The President has received with great satisfaction, the communication, that should the Orders in Council of 1807 be revoked, the blockade of May, of the preceding year, would cease with them, and that any blockade which should be afterwards instituted, should be duly notified and maintained by an adequate force. This frank and explicit declaration, worthy of the prompt and amicable measure adopted by the Prince Regent in coming into power, seems to remove a material obstacle to an accommodation of differences between our countries, and when followed by the revocation of the Orders in Council, will, as I am authorized to inform you, produce an immediate termination of the non-importation law, by an exercise of the power vested in the President for that purpose.

I conclude with remarking, that if I have confined this letter to the subjects brought into view by yours, it is not because the United States have lost sight, in any degree, of the other very serious causes of complaint, on which they have received no satisfaction, but because the conciliatory policy of this Government has thus far separated the case of the Orders in Council from others, and because, with respect to these others, your communication has not afforded any reasonable prospect of resuming them, at this time, with success. It is presumed that the same liberal view of the true interests of Great Britain, and friendly disposition towards the United States, which induced the Prince Regent to remove so material a difficulty as had arisen in relation to a repeal of the Orders in Council, will lead to a more favourable further consideration of the remaining difficulties on that subject, and that the advantages of an amicable adjustment of every question depending between the two countries, will be seen by your Government in the same light as they are by that of the United States.

I have the honour to be, &c.

(Signed)

JAMES MONROE.

A. J. Foster, Esq.

(Second Inclosure, referred to in No. 14.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, July 26, 1811.

I have had the honour to receive your letter of July 23d, in answer to mine of the 3d and 14th instant, which, you will permit me to say, were not merely relative to His Majesty's Orders in Council, and the blockade of May 1806, but also to the President's Proclamation of last November, and to the subsequent Act of Congress of March 2d, as well as to the just complaints which His Royal Highness the Prince Regent, had commanded me to make to your Government, with respect to the proclamation and to that Act.

If the United States' Government had expected that I should have made communications which would have enabled them to come to an accommodation with Great Britain, on the ground on which alone you say it was possible to meet us, and that you mean by that expression a departure from our system of defence against the new kind of warfare still practised by France;

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I am at a loss to discover from what source they could have derived those expectations, certainly not from the correspondence between the Marquess Wellesley and Mr. Pinkney.

Before I proceed to reply to the arguments which are brought forward by you, to show that the Berlin and Milan Decrees are repealed, I must first enter into an explanation upon some points on which you have evidently misapprehended, for I will not suppose you could have wished to misinterpret my meaning.

And first, in regard to the blockade of May 1806, I must aver, that I am wholly at a loss to find out from what part of my letter it is that the President has drawn the unqualified inference, that should the Orders in Council of 1807 be revoked, the blockade of May 1806, would cease with them. It is most material that on this point no mistake should exist between us. From your letter, it would appear as if, on the question of blockade which America had so unexpectedly connected with her demand for a repeal of our Orders in Council, Great Britain had made the concession required of her; as if, after all that has passed on the subject, after the astonishment and regret of His Majesty's Government at the United States, having taken up the view which the French Government presented, of our just and legitimate principles of blockade, which are exemplified in the blockade of May 1806, the whole ground taken by His Majesty's Government was at once abandoned. When I had the honour to exhibit to you my instructions, and to draw up, as I conceived, according to your wishes, and those of the President, a statement of the mode in which that blockade would probably disappear, I never meant to authorise such a conclusion, and I now beg most unequivocally to disclaim it. The blockade of May 1806, will not continue after the repeal of the Orders in Council, unless His Majesty's Government shall think fit to sustain it by the special application of a sufficient naval force, and the fact of its being so continued or not, will be notified at the time. If in this view of the matter, which is certainly presented in a conciliatory spirit, one of the obstacles to a complete understanding between our countries can be removed by the United States' Government waving all further reference to that blockade, when they can be justified in asking a repeal of the Orders, and I may communicate this to my Government, it will, undoubtedly, be very satisfactory; but I beg distinctly to disavow having made any acknowledgment that the blockade would cease merely in consequence of a revocation of the Orders in Council. Whenever it does cease, it will cease because there will be no adequate force applied to maintain it.

On another very material point, Sir, you appear to have misconstrued my words; for in no one passage of my letter can I discover any mention of innovations on the part of Great Britain, such as you say excited a painful surprise in your Government. There is no new pretension set up by His Majesty's Government. In answer to questions of yours as to what were the Decrees or regulations of France which Great Britain complained of, and against which she directs her retaliatory measures, I brought distinctly into your view the Berlin and Milan Decrees; and you have not denied, because indeed you could not, that the provisions of those Decrees were new measures of war on the part of France, acknowledged as such by her Ruler, and contrary to the principles and usages of civilized nations. That the present war has been oppressive beyond example by its duration, and the desolation it spreads through Europe, I willingly agree with you, but the United States cannot surely mean to attribute the cause to Great Britain. The question between Great Britain and France is that of an honourable struggle against the lawless efforts of an ambitious tyrant, and America can but have the wish of every independent Nation as to its result.

On a third point, I have also to regret that my meaning should have been mistaken. Great Britain never contended that British merchant vessels should be allowed to trade with her enemies, or that British property should be allowed entry into their ports, as you would infer; such a pretension would indeed be preposterous; but Great Britain does contend against the

system of terror put in practice by France, by which, usurping authority, wherever her arms or the timidity of nations will enable her to extend her influence, she makes it a crime to neutral countries, as well as individuals; that they should possess articles, however acquired, which may have been once the produce of English industry or of the British soil. Against such an abominable and extravagant pretension, every feeling must revolt; and the honour as well as the interest of Great Britain engages her to oppose it.

Turning to the course of argument contained in your letter, allow me to express my surprise at the conclusion you draw in considering the question of priority, relative to the French Decrees or British Orders in Council. It was clearly proved that the blockade of May 1806, was maintained by an adequate naval force, and therefore was a blockade founded on just and legitimate principles; and I have not heard that it was considered in a contrary light, when notified as such to you by Mr. Secretary Fox, nor until it suited the views of France to endeavour to have it considered otherwise. Why America took up the view the French Government chose to give of it, and could see in it grounds for the French Decrees, was always matter of astonishment in England.

Your remarks on the modifications, at various times, of our system of retaliation, will require the less reply, from the circumstance of the Order in Council of April 1809, having superseded them all. They were calculated for the avowed purpose of softening the effect of the original Orders on neutral commerce, the incidental effect of those Orders on neutrals having been always sincerely regretted by His Majesty's Government; but when it was found that neutrals objected to them, they were removed.

As to the principle of retaliation, it is founded on the just and natural right of self-defence against our enemy; if France is unable to enforce her Decrees on the ocean, it is not from the want of will, for she enforces them wherever she can do it; her threats are only empty where her power is of no avail.

In the view you have taken of the conduct of America, in her relations with the two belligerents, and in the conclusion you draw with respect to the impartiality of your country, as exemplified in the Non-Importation Law, I lament to say I cannot agree with you. That law is a direct measure against the British trade, enacted at a time when all the legal authorities in the United States appeared ready to contest the statement of a repeal of the French Decrees, on which was founded the President's proclamation of November 2d, and consequently to dispute the justice of the proclamation itself.

You urge, Sir, that the British Government promised to proceed *pari passu* with France in the repeal of her edicts. It is to be wished you could point out to us any step France has taken in the repeal of hers. Great Britain has repeatedly declared that she would repeal when the French did so, and she means to keep to that declaration.

I have stated to you, that we could not consider the letter of August 5, declaring the repeal of the French edicts, provided we revoked our Orders in Council, or America resented our not doing so, as a step of that nature; and the French Government knew that we could not; their object was, evidently, while their system was adhered to in all its rigour, to endeavour to persuade the American Government that they had relaxed from it, and to induce her to proceed in enforcing the submission of Great Britain to the inordinate demands of France. It is to be lamented that they have but too well succeeded; for the United States' Government appear to have considered the French declaration in the sense in which France wished it to be taken, as an absolute repeal of her Decrees, without adverting to the conditional terms which accompanied it.

But you assert that no violations of your neutral rights by France occur on the high seas, and that these were all the violations alluded to in the Act of Congress of May 1810. I readily believe, indeed, that such cases are rare, but it is owing to the préponderance of the British navy that they are so. When scarce a ship under the French flag can venture to sea without being

taken, it is not extraordinary that they make no captures. If such violations alone were within the purview of your law, there would seem to have been no necessity for its enactment. The British navy might have been safely trusted for the prevention of their occurrence. But I have always believed, that the American legislators had in view, and my Government had believed, in the provisions of their law, as it respects France, not only her deeds of violence on the seas, but all the novel and extraordinary pretensions and practices of her Government which infringed their neutral rights.

We have no evidence, as yet, of any of those pretensions being abandoned. To the ambiguous declaration in Mr. Champagny's note, is opposed the unambiguous and personal declaration of Buonaparte himself. You urge that there is nothing incompatible with the revocation of the Decrees, in respect to the United States, in his expression to the Deputies from the free cities of Hamburg, Bremen, and Lubeck; that it is distinctly stated in that speech that the blockade of the British islands shall cease when the British blockades cease, and that the French blockade shall cease in favour of those nations in whose favour Great Britain revokes hers, or who support their rights against her pretension.

It is to be inferred from this and the corresponding parts of the declaration alluded to, that unless Great Britain sacrifices her principles of blockade, which are those authorized by the established law of nations, France will still maintain her Decrees of Berlin and Milan, which indeed the speech in question declares to be the fundamental laws of the French empire.

I do not, I confess, conceive how these avowals of the Ruler of France can be said to be compatible with the repeal of his Decrees in respect to the United States. If the United States are prepared to insist on the sacrifice by Great Britain of the ancient and established rules of maritime war, practised by her, then, indeed, they may avoid the operation of the French Decrees; but otherwise, according to this document, it is very clear that they are still subjected to them.

The Decree of Fontainebleau is confessedly founded on the Decrees of Berlin and Milan, dated the 19th October, and proves their continued existence. The report of the French Minister of December 8, announcing the perseverance of France in her Decrees, is still further in confirmation of them, and a re-perusal of the letter of the Minister of Justice of the 25th December, confirms me in the inference I drew from it; for, otherwise why should that Minister make the prospective restoration of American vessels taken after the 1st of November, to be a consequence of the non-importation, and not of the French revocation. If the French Government had been sincere, they would have ceased infringing on the neutral rights of America after the 1st November: that they violated them, however, after that period, is notorious.

Your Government seem to let it be understood, that an ambiguous declaration from Great Britain, similar to that of the French Minister, would have been acceptable to them. But, Sir, is it consistent with the dignity of a nation that respects itself to speak in ambiguous language? The subjects and citizens of either party would, in the end, be the victims, as many are already, in all probability, who, from a misconstruction of the meaning of the French Government, have been led into the most imprudent speculations. Such conduct would not be to proceed *pari passu* with France in revoking our edicts, but to descend to the use of the perfidious and juggling contrivances of her Cabinet, by which she fills her coffers at the expence of independent nations. A similar construction of proceeding *pari passu* might lead to such Decrees as those of Rambouillet or of Bayonne, to the system of exclusion or of licences; all measures of France against the American commerce, in nothing short of absolute hostility.

It is urged, that no vessel has been condemned by the tribunals of France on the principles of her Decrees since the 1st November. You allow, however, that there have been some detained since that period, and that such parts of the cargoes as consisted of goods, not the produce of America, was

seized, and the other part, together with the vessel herself, being only released after the President's proclamation became known in France. These circumstances surely only prove the difficulty that France is under in reconciling her anti-commercial and anti-neutral system with her desire to express her satisfaction at the measures taken in America against the commerce of Great Britain. She seizes in virtue of the Berlin and Milan Decrees, but she makes a partial restoration for the purpose of deceiving America.

I have now followed you, I believe, Sir, through the whole range of your argument, and on reviewing the course of it, I think I may surely say, that no satisfactory proof has as yet been brought forward of the repeal of the obnoxious Decrees of France; but, on the contrary, that it appears they continue in full force, consequently that no grounds exist on which you can with justice demand of Great Britain a revocation of her Orders in Council; that we have a right to complain of the conduct of the American Government, in enforcing the provisions of the Act of May 1810, to the exclusion of the British trade, and afterwards in obtaining a special law for the same purpose, although it was notorious at the time that France still continued her aggressions upon American commerce, and had recently promulgated anew her Decrees, suffering no trade from this country but through licences publicly sold by her agents, and that all the suppositions you have formed of innovations on the part of Great Britain, or of her pretensions to trade with her enemies, are wholly groundless. I have also stated to you the view His Majesty's Government has taken of the question of the blockade of May 1806, and it now only remains that I urge afresh the injustice of the United States' Government persevering in their union with the French system, for the purpose of crushing the commerce of Great Britain.

From every consideration which equity, good policy, or interest can suggest, there appears to be such a call upon America to give up this system, which favours France to the injury of Great Britain, that I cannot, however little satisfactory your communications, as yet abandon all hopes that even before the Congress shall be convened, a new view may be taken of the subject by the President, which will lead to a more happy result.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Third Inclosure, referred to in No. 14.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, July 24, 1811.

HAVING been unable to ascertain distinctly from your letter to me of yesterday's date, whether it was the determination of the President to rest satisfied with the partial repeal of the Berlin and Milan Decrees, which you believe to have taken place, so as to see no reason in the conduct of France for altering the relations between this country and Great Britain, by exercising his power of suspending the operation of the Non-importation Act; allow me to repeat my question to you on this point, as contained in my letter of the 14th instant, before I proceed to make any comments on your answer.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Fourth Inclosure, referred to in No. 14.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, July 26, 1811.

I HAD the honour to receive your letter of yesterday's date, in time to submit it to the view of the President before he left town.

It was my object to state to you in my letter of the 23d instant, that under existing circumstances, it was impossible for the President to terminate the operation of the Non-Importation Law of the 2d March last: that France having accepted the proposition made by a previous law, equally to Great Britain and to France, and having revoked her Decrees, violating our neutral rights, and Great Britain having declined to revoke hers, it became the duty of this Government to fulfil its engagement, and to declare the Non-Importation Law in force against Great Britain.

This state of affairs has not been sought by the United States. When the proposition contained in the Law of May 1st 1810, was offered equally to both powers, there was cause to presume that Great Britain would have accepted it, in which event the Non-Importation Law would not have operated against her.

It is in the power of the British Government, at this time, to enable the President to set the Non-Importation Law aside, by rendering to the United States an act of justice. If Great Britain will cease to violate their neutral rights, by revoking her Orders in Council, on which event alone the President has the power, I am instructed to inform you that he will, without delay, exercise it by terminating the operation of this law.

It is presumed that the communications which I have had the honour to make to you, of the revocation by France of her Decrees, so far as they violated the neutral rights of the United States, and of her conduct since the revocation, will present to your Government a different view of the subject from that which it had before taken, and produce in its councils a corresponding effect.

I have the honour to be, &c.

(Signed)

JAS. MONROE.

A. J. Foster, Esq.

No 15.

Mr. Foster to the Marquess Wellesley.—(Extract.)

Philadelphia, September 18th, 1811.

By the three letters on the subject of the enemy's privateers, said to be fitted out in American ports, which I have written to Mr. Monroe, and of which I have the honour to transmit copies by this opportunity, your Lordship will see that I have not failed to make such representations as the nature of the case could warrant. This Government do not appear to have countenanced infringements of their neutrality in this respect. I have as yet received no reply from Mr. Monroe, however, to my representations, and mean immediately to call upon him again for an answer, which he has been extremely dilatory in giving. When I saw Mr. Gallatin, he told me he could not account for the delay, but attributed it to the American Minister's being desirous to wait until he had collected every information necessary to make it full and satisfactory.

(First Inclosure, referred to in No. 15.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, July 23, 1811.

I HAVE received information that several vessels of a very suspicious appearance have lately sailed from Baltimore, many of them armed with guns on the deck and with small arms; one of them in particular, which sailed within these few days, the brig Brutus, Captain Pecarrere, had several guns mounted, and after she left the wharf, several cases of small arms, swords, and pikes, were sent on board her.

It is also stated to me, that there have lately occurred numerous cases, of vessels apparently fitted out as merchant ships, from different ports in the United States, particularly from Baltimore and Charlestown, which have, on quitting the American shores, commenced acting as privateers, under French commissions, against the British trade.

The armaments above-mentioned, are therefore made, in all probability, for the purpose of privateering, and I have the honour to mention the circumstance to you, Sir, in the confident expectation, that the Government of the United States will apply what means may to them seem best fitting for preventing their neutrality being violated in this manner, and bringing the offenders to the punishment they deserve.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Second Inclosure, referred to in No. 15.)

Mr. Foster to Mr. Monroe.

SIR,

Philadelphia, August 16, 1811.

I HAD the honour to call your attention in a letter dated July 23d, (which as yet remains unanswered) to the number of suspicious vessels understood to be arming in the ports of the United States, particularly at Baltimore, and to the probability of their being fitted out as privateers, there being the strongest grounds to believe, that several vessels have left the American harbours nominally as merchant ships, which have afterwards become cruizers against the British trade; and I requested, in consequence, that the United States' Government would be pleased to apply such means, as to them might appear best fitting, for preventing any violation of their neutrality taking place in this manner.

I am now, by the special commands of His Royal Highness the Prince Regent, directed to present a remonstrance to the United States' Government, on the permission which His Royal Highness understands, that the cruizers of His Majesty's enemies enjoy, of frequenting with their prizes the American ports, for purposes of outfit or refuge. A permission of this nature appears a transgression of the laws of neutrality, inconsistent with the principles of justice professed by the Government of the United States, and must be particularly injurious to His Majesty's interests, from the inequality otherwise observed by America, in her relations with the belligerent powers.

Under the confident hope, Sir, that this subject will be seen in the same point of view by you, and that your reply will enable me to remove the anxiety of His Majesty's Government respecting it, I shall wait with considerable im-

patience for your answer, which I am desirous of forwarding to England as early as possible.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Honourable James Monroe.

(Third Inclosure, referred to in No. 15.)

Mr. Foster to Mr. Monroe.

SIR,

Philadelphia, September 1, 1811.

I AM informed by His Majesty's Consul-General, at New York, that the British ship, *Tottenham*, Young, Master, arrived at that port in the afternoon of the 28th ultimo, a prize to the French privateer, the *Duke of Dantzic*, Arreguande, Commander, which captured her on the 3d of this month, off Barbadoes. The *Tottenham*, is stated, to be now riding in the harbour of New York, the British flag under that of France.

I take an early opportunity of having the honour to bring this fact before you, Sir, with the confident expectation, that no time will be lost by your Government, in preventing the neutrality of the United States from being further violated by a continuation of the vessel in question in the American waters.

It cannot be expected by America, that Great Britain can ever permit the vessels and property of her subjects to be brought or sent into neutral ports by the ships of her enemy, while ships of war bearing British colours are excluded from such neutral ports, being even denied the common rights of hospitality.

If such a permission were to continue to be granted by America to His Majesty's enemies, it would be more injurious to British commerce, than a state of open war between America and Great Britain, and would almost render of no importance the conquest of all the enemies colonies in the West Indies, which has been achieved at the expence of so much blood and treasure of Great Britain.

You are not unaware, Sir, that another British ship, a prize to the same French privateer, has been for these some months past, allowed to remain in the port of Charlestown.

His Majesty's Vice-Consul, at Savannah, has recently reported to me the case of the French privateer, *La Vengeance*, which had put into that port on July 5, and which has been allowed, under the pretext of obtaining a supply of money to pay for necessary repairs, to dispose of her cargo, consisting of cochineal and indigo plundered from British ships, to the value of 17 or 18,000 dollars, being double what it was valued at, and five or six times the amount that could have been wanted to repair any damage sustained by her.

While I conceive it to be my duty thus to lay before you, Sir, some of the most flagrant instances of the enemy's violation of the American territory which have come to my knowledge, with a view to obtain such redress as may be practicable, and the interference of your Government to prevent the recurrence of similar abuses in future, I may be allowed to remind you, that to representations which I have had the honour already to make to you on the subject generally, the one dated as far back as July 23d, the other at the express command of His Royal Highness the Prince Regent, on the 16th ultimo, I have as yet received no answer whatsoever.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Honourable James Monroe.

No. 16.

*Mr. Foster to the Marquess Wellesley.—(Extract.)**Philadelphia, September 29th, 1811.*

Soon after the departure of His Majesty's Messenger, I received the answer of the American Minister to my notes on the subject of French privateers, and have the honour to transmit a copy of it inclosed.

*(Inclosure, referred to in No. 16.)**Mr. Monroe to Mr. Foster.*

SIR,

Department of State, September 21, 1811.

I HAVE had the honour to receive your note of the 5th instant, as I had before those of a previous date mentioned in it, and to submit them to the view of the President.

I have only to remark, at present, that an inquiry is ordered to be made in the several sea-ports alluded to, touching the facts alledged in your notes, and that should it appear that any circumstance had occurred which claimed the interposition of the Government, it will be immediately attended to.

I have the honour to be, &c.

(Signed)

JAMES MONROE.

A. J. Foster, Esq.

No. 17.

*Mr. Foster to the Marquess Wellesley.—(Extract.)**Washington, November 5th, 1811.*

I HAVE the honour to transmit to your Lordship, inclosed, a copy of the correspondence which has been resumed between Mr. Monroe and myself, on the subject of His Majesty's Orders in Council, consisting of five letters.

*(First Inclosure, referred to in No. 17.)**Mr. Monroe to Mr. Foster.*

SIR,

Department of State, October 17th, 1811.

I HAVE the honour to communicate to you copies of two letters from the Chargé d'Affaires of the United States at Paris, to their Chargé d'Affaires at London, and a copy of a correspondence of the latter with the Marquess Wellesley on the subject. By this it will be seen that Mr. Smith was informed by the Marquess Wellesley, that he should transmit to you a copy of the communication from Paris, that it might have full consideration in the discussion depending here.

Although an immediate repeal was to have been expected from your Go-

[CLASS C.]

N

vernment, on the receipt of this communication, if the new proof which it affords of the French repeal was satisfactory ; yet it will be very agreeable to learn that you are now authorised to concur in an arrangement that will terminate both the Orders in Council and the Non-importation Act.

I have the honour to be, &c.

(Signed)

JAMES MONROE.

A. J. Foster, Esq.

P. S. Hearing that you will not be in town for several days, this letter, and one bearing date the 1st of this month, which I had prepared, and intended to deliver to you on my return here, are forwarded by a special messenger.

(First Paper, referred to in First Inclosure in No. 17.)

Mr. Russell to Mr. J. S. Smith.

SIR,

Paris, July 5, 1811.

I OBSERVE, by your letter of the 7th ultimo, your solicitude to obtain evidence of the revocation of the Berlin and Milan Decrees.

On the 5th of August last the Duke of Cadore announced to General Armstrong, that these Decrees were revoked, and that they would cease to operate on the 1st of November. Since the 1st of November these Decrees have not, to my knowledge, in any instance, been executed to the prejudice of American property arriving since that time ; on the contrary, the *Grace Ann Green*, coming clearly within the penal terms of those Decrees, had they continued in force, was liberated in December last, and her cargo admitted in April. This vessel had, indeed, been taken by the English, and retaken from them ; but as this circumstance is not assigned here as the cause of the liberation of this property, it ought not to be presumed to have operated alone as such.

Whatever special reasons may be supposed for the release of the *Grace Ann Green*, that of the *New Orleans Packet* must have resulted from the revocation of the French edicts.

The *New Orleans Packet* had been boarded by two English vessels of war, and had been some time at an English port, and thus doubly transgressed against the Decrees of Milan. On arriving at Bourdeaux, she was in fact seized by the Director of the Customs, and these very transgressions expressly assigned as the cause of seizure. When I was informed of this precipitate act of the officer at Bourdeaux, I remonstrated against it, on the sole ground that the Decrees under which it was made, had been revoked. This remonstrance was heard. All further proceedings against the *New Orleans Packet* were arrested, and on the 9th of January, both the vessel and cargo were ordered to be placed at the disposition of the owners, on giving bond. This bond has since been cancelled by an order of the Government ; and thus the liberation of the property perfected. The *New Orleans Packet* has been some time waiting in the Garonne, with her return cargo on board, for an opportunity only of escaping the English Orders in Council.

I know of no other American vessel, arrived voluntarily in the Empire of France, or the kingdom of Italy, since the 1st of November, brought in since that time, on which there has been a decision. After such evidence, to pretend to doubt of their revocation, with regard to us, would seem to be the result of something more than mere incredulity. With much respect,

I am, &c.

(Signed)

JONA. RUSSELL.

J. S. Smith, Esq.

For other Papers referred to in First Inclosure in No. 17,

See Nos. 30, 31, and 32.—Class A.

(*Second Inclosure, referred to in No. 17.*)

Mr. Monroe to Mr. Foster.

SIR.

Department of State, October 1, 1811.

I HAVE had the honour to receive your letter of the 26th of July, and to submit it to the view of the President.

In answering that letter, it is proper that I should notice a complaint, that I had omitted to reply, in mine of the 23d of July, to your remonstrance against the Proclamation of the President, of November last, and to the demand which you had made, by the order of your Government, of the repeal of the Non-Importation Act, of March 2d of the present year.

My letter has certainly not merited this imputation.

Having shown the injustice of the British Government in issuing the Orders in Council on the pretext assigned, and its still greater injustice, in adhering to them after that pretext had failed, a respect for Great Britain, as well as for the United States, prevented my placing in the strong light in which the subject naturally presented itself, the remonstrance alluded to, and the extraordinary demand founded on it, that while your Government accommodated in nothing, the United States should relinquish the ground, which by a just regard to their public rights and honour, they had been compelled to take. Propositions tending to degrade a nation can never be brought into discussion by a Government not prepared to submit to the degradation. It was for this reason that I confined my reply to those passages in your letter, which involved the claim of the United States, on the principles of justice, to the revocation of the Orders in Council. Your demand, however, was neither unnoticed nor unanswered. In laying before you the complete, and, as was believed, irresistible proof on which the United States expected, and called for the revocation of the Orders in Council, a very explicit answer was supposed to be given to that demand.

Equally unfounded is your complaint, that I misunderstood that passage which claimed, as a condition of the revocation of the Orders in Council, that the trade of Great Britain with the Continent should be restored to the state in which it was before the Berlin and Milan Decrees were issued. As this pretension was novel and extraordinary, it was necessary that a distinct idea should be formed of it, and, with that view, I asked such an explanation as would enable me to form one.

In the explanation given, you do not insist on the right to trade with British property in British vessels, directly with your enemies. Such a claim you admit would be preposterous. But you do insist, by necessary implication, that France has no right to inhibit the importation into her ports of British manufactures, or the produce of the British soil, when become the property of neutrals; and that, until France removes that inhibition, the United States are to be cut off, by Great Britain, from all trade whatever with her enemies.

On such a pretension it is almost impossible to reason. There is, I believe, no example of it in the history of past wars. Great Britain, the enemy of France, undertakes to regulate the trade of France; nor is that all; she tells her that she must trade in British goods. If France and Great Britain were at peace, this pretension would not be set up, nor even thought of. Has Great Britain then acquired, in this respect, by war, rights which she has not in peace? And does she announce to neutral nations, that, unless they consent to become the instruments of this policy, their commerce shall be annihilated, and their vessels shall be shut up in their own ports?

I might ask whether French goods are admitted into Great Britain, even in peace, and if they are, whether it be of right, or by the consent and policy of the British Government?

That the property would be neutralized does not affect the question. If

the United States have no right to carry their own productions into France, without the consent of the French Government, how can they undertake to carry there those of Great Britain? In all cases it must depend on the interest and the will of the party.

Nor is it material to what extent, or by what powers, the trade to the Continent is prohibited. If the powers who prohibit it are at war with Great Britain, the prohibition is a necessary consequence of that state. If at peace, it is their own act, and whether it be voluntary or compulsive, they alone are answerable for it. If the act be taken at the instigation, and under the influence of France, the most that can be said is, that it justifies reprisal against them by a similar measure; on no principle, whatever, can it be said to give any sanction to the conduct of Great Britain towards neutral nations.

The United States can have no objection to the employment of their commercial capital in the supply of France, and of the Continent generally, with manufactures, and to comprise in the supply those of Great Britain, provided those powers will consent to it. But they cannot undertake to force such supplies on France or any other power, in compliance with the claim of the British Government, on principles incompatible with the rights of every independent nation, and they will not demand in favour of another power, what they cannot claim for themselves.

All that Great Britain could with reason complain of, was the inhibition by the French Decrees, of the lawful trade of neutrals with the British dominions. As soon as that inhibition ceased, her inhibition of our trade with France ought in like manner to have ceased. Having pledged herself to proceed *pari passu* with France, in the revocation of their respective acts, violating neutral rights, it has afforded just cause of complaint, and even of astonishment, to the United States, that the British Government should have sanctioned the seizure and condemnation of American vessels, under the Orders in Council, after the revocation of the French Decrees was announced, and even in the very moment when your mission, avowed to be conciliatory, was to have its effect. I will only add, that had it appeared finally, that France had failed to perform her engagement, it might at least have been expected, that Great Britain would not have molested such of the vessels of the United States as might be entering the ports of France, on the faith of both Governments, till that failure was clearly proved.

To many insinuations in your letter, I make no reply, because they sufficiently suggest the only one that would be proper.

If it were necessary to dwell on the impartiality which has been observed by the United States towards the two belligerents, I might ask, whether, if Great Britain had accepted the condition which was offered equally to her and France, by the act of May 1, 1810, and France had rejected it, there is cause to doubt that the Non-Importation Act would have been carried into effect against France? No such doubt can possibly exist, because, in a former instance, when this Government, trusting to a fulfilment by yours, of an arrangement which put an end to a non-intercourse with Great Britain, the non-intercourse was continued against France, who had not then repealed her Decrees, as it was not doubted that England had done. Has it not been repeatedly declared to your Government, that if Great Britain would revoke her Orders in Council, the President would immediately cause the non-importation to cease? You well know that the same declaration has been often made to yourself, and that nothing is wanting to the removal of the existing obstructions to the commerce between the two countries, than a satisfactory assurance, which will be received with pleasure from yourself, that the Orders in Council are at an end.

By the remark in your letter of the 3d of July, that the blockade of May 1806, had been included in the more comprehensive system of the Orders in Council of the following year, and that, if that blockade should be continued in force, after the repeal of the Orders in Council, it would be in consequence of the special application of a sufficient naval force; I could not but infer your idea to be, that the repeal of the Orders in Council would necessarily

involve the repeal of the blockade of May. I was the more readily induced to make this inference from the consideration, that if the blockade was not revoked by the repeal of the Orders in Council, there would be no necessity for giving notice that it would be continued, as by the further consideration, that according to the decision of your court of Admiralty, a blockade instituted by proclamation, does not cease by the removal of the force applied to it, nor without a formal notice by the Government to that effect.

It is not, however, wished to discuss any question relative to the mode by which that blockade may be terminated. Its actual termination is the material object for consideration.

It is easy to show, and it has already been abundantly shown, that the blockade of May 1806, is inconsistent in any view that may be taken of it, with the law of nations. It is also easy to show that, as now expounded, it is equally inconsistent with the sense of your Government when the Order was issued, and this change is a sufficient reply to the remarks which you have applied to me personally.

If you will examine the Order, you will find that it is strictly little more than a blockade of the coast from the Seine to Ostend. There is an express reservation in it, in favour of neutrals to any part of the coast between Brest and the Seine, and between Ostend and the Elbe. Neutral powers are permitted by it to take from their own ports every kind of produce without distinction, as to its origin, and to carry it to the continent, under that limitation, and with the exception only of contraband of war and enemy's property, and to bring thence to their own ports, in return, whatever articles they think fit. Why were contraband of war and enemy's property excepted, if a commerce, even in those articles, would not otherwise have been permitted under the reservation? No order was necessary to subject them to seizure; they were liable to it by the law of nations, as asserted by Great Britain.

Why then did the British Government institute a blockade which, with respect to neutrals, was not vigorous as to the greater part of the coast comprised in it? If you will look to the state of things which then existed between the United States and Great Britain, you will find the answer—a controversy had taken place between your Governments on a different topic, which was still depending. The British Government had interfered with the trade between France and her allies, in the produce of their colonies. The just claim of the United States was then a subject of negotiation, and your Government, professing its willingness to make a satisfactory arrangement of it, issued the Order which allowed the trade, without making any concession as to the principle, reserving that for adjustment by treaty. It was in this light that I viewed, and in this sense that I represented that Order to my Government, and in no other did I make any comment upon it.

When you reflect that this Order, by allowing the trade of neutrals in colonial productions to all that portion of the coast which was not rigorously blockaded, afforded to the United States an accommodation in a principal point then at issue between our Governments, and of which their citizens extensively availed themselves; that this trade, and the question of blockade, and every other question in which the United States and Great Britain were interested, were then in a train of amicable negotiation; you will, I think, see the causes why the Minister, who then represented the United States with the British Government, did not make a formal complaint against it. You have appealed to me, who happened to be that Minister, and urged my silence as an evidence of my approbation of, or at least acquiescence in the blockade: an explanation of the cause of that supposed silence, is not less due to myself than to the true character of the transaction. With the Minister with whom I had the honour to treat, I may add, that an official formal complaint was not likely to be resorted to, because friendly communications were invited and preferred. The want of such a document is no proof that the measure was approved by me, or that no complaint was made.

In recalling to my mind, as this incident naturally does, the manly character of that distinguished and illustrious statesman, and the confidence

with which he inspired all those with whom he had to treat, I shall be permitted to express, as a slight tribute of respect to his memory, the very high consideration in which I have always held his great talents and virtues.

The United States have not, nor can they approve the blockade of an extensive coast. Nothing certainly can be inferred from any thing that has passed relative to the blockade of May 1806, to countenance such an idea.

It is seen with satisfaction that you still admit that the application of an adequate force is necessary to give a blockade a legal character, and that it will lose that character, whenever that adequate force ceases to be applied. As it cannot be alleged that the application of any such adequate force has been continued and actually exists, in the case of the blockade of May 1806, it would seem to be a fair inference that the repeal of the Orders in Council will leave no insuperable difficulty with respect to it. To suppose the contrary would be to suppose that the Orders in Council, said to include that blockade, resting themselves on a principle of retaliation only, and not sustained by the application of an adequate force, would have the effect of sustaining a blockade admitted to require the application of an adequate force, until such adequate force should actually take the place of the Orders in Council. Whenever any blockade is instituted, it will be a subject for consideration, and if the blockade be in conformity to the law of nations, there will be no disposition in this Government to contest it.

I have the honour to be, &c.

(Signed)

JAMES MONROE.

A. J. Foster, Esq.

(Third Inclosure, referred to in No. 17.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, October 22, 1811.

I HAD the honour to receive your letter of the 17th instant, together with its three inclosures, on the road between Baltimore and this city; I had that of receiving, at the same time, your letter dated October 1, in answer to mine of the 26th of last July.

Not having had any dispatches from His Majesty's Government lately, I have not as yet received the copy of the recent communication from Paris, in regard to the supposed repeal of the French Decrees, which the Chargé d'Affaires of the United States at London has intimated to you that he understood the Marquess Wellesley intended to transmit to me, and which I conclude is the same as that contained in the letter of Mr. Russell, the American Chargé d'Affaires in France. I am, however, in daily expectation of the arrival of His Majesty's packet boat, when it will, in all probability, reach me, and when, if I should receive any fresh instructions in consequence, I will not fail immediately to acquaint you. In the mean while, however, I beg you will permit me to make some remarks in reply to your letter of October 1, being extremely anxious to do away the impression which you seem to have received relative to the demand I had made for the repeal of the Non-Importation Act of the present year.

It is, I assure you, Sir, with very great regret that I find you consider that demand as involving in any degree propositions tending to degrade your nation. Such an idea certainly never existed with His Majesty's Government, nor would it be compatible with the friendly sentiments entertained by them for the United States; neither could I have suffered myself to be the channel of conveying a demand which I thought had such a tendency. However you may view that demand, I can safely say, that it was made on the part of Great Britain, in consequence of its appearing to His Majesty's Government, on strong evidence, that the chief of the French nation had really deceived America as to the repeal of his Decrees, and in the hopes that the United

States' Government would therefore see the justice of replacing this country on its former footing of amicable relations with England; nothing appearing to be more natural than such an expectation, which seemed a necessary consequence of the disposition expressed by America to maintain her neutrality, and desirable in every other point of view. I cannot, indeed, bring myself to think, Sir, that your candour would allow you, on a reconsideration, to put any other construction on the matter, and had my arguments had sufficient weight with you in showing that the French Decrees were still in force, I cannot doubt but you would have agreed with me in the conclusion I drew. It would seem therefore only owing to your not viewing the deceitful conduct of the French Government in the same light that it appears to His Majesty's Government, that a difference of opinion exists between us as to the proposal I made, which, under the conviction entertained by them, was surely a very just and natural one.

From the earnest desire of vindicating myself and my Government from the charge of making any degrading or unjust demands on that of America, I have taken the liberty to trouble you so far, and I will now proceed to show why I thought you had misunderstood the passage of my letter which related to the extent in which the repeal of the French Decrees was required by Great Britain. In the explanation which you desired on this point, I gave you that which the Marquess Wellesley gave to Mr. Pinkney, in answer to his letter of August 25, 1810, and I beg to refer you to the Message of the President of the United States, on the opening of Congress in December 1810, for a proof that the demand of Great Britain, in the extent in which I have stated it, was known to your Government several months ago; how was I, therefore, to suppose, in the term innovations, as applied to the explanation given by me, that you could mean otherwise than some really new pretension on the part of Great Britain, such as that France should suffer British property to be carried into her ports for the purposes of trade? If the warmth I was betrayed into, in endeavouring to refute a supposed imputation of this sort, gave any offence, I sincerely regret it; and I will beg permission here to say, Sir, that if unconsciously I have, by any of my remarks, led you to suppose they conveyed any improper insinuations, as one paragraph of your letter would appear to imply, I am most unfeignedly sorry for it, as I entertain the highest respect for you personally and for your Government, and could only have meant what I wrote in the way of argument, or for the purpose of contrasting the proceedings of France, in her conduct towards the United States, with those of Great Britain.

In reverting to the extraordinary and unprecedented situation of things that has arisen out of the war in Europe, it would seem needless to repeat the evidence there is that the lawless and unbounded ambition of the Ruler of France has been the origin of it, and it cannot be a secret to the United States' Government, that his plan has been, and avowedly continues to be, not to scruple at the violation of any law, provided he can thereby overthrow the maritime power of England. Is it not reasonable, therefore, in Great Britain to distrust an ambiguous declaration of his having suddenly given up any part of a system which he thought calculated to produce such an effect? You say, however, that the Decrees of Berlin and Milan are revoked. America, as not being at war, and, therefore, not seeing so nearly into the views of France, may be less scrupulous as to the evidence necessary to prove the fact; but, Sir, it surely cannot be expected that Great Britain, who is contending for every thing that is dear to her, should not require more proof on a point so material to her. It is undoubtedly a very desirable thing for the United States to have a free and unrestricted trade with both belligerents, but the essential security and most important interests of America are not involved in the question as are those of Great Britain. France has levelled a blow which she hopes will prove deadly to the resources of Great Britain, and before the British Government can, with safety, give up the measures of defence in consequence adopted by them, very strong proof must exist of the cessation, by France, of her novel and unprecedented measures.

I confess, Sir, with the sincerest disposition to discover on the part of the Ruler of France, a return to the long established practice of warfare as exercised in civilized Europe, I have been unable to succeed; and if the French Government had really meant to withdraw their obnoxious Decrees, it is inconceivable why, instead of allowing their intention to be guessed at or inferred, they should not openly and in plain language have declared so: the Decrees themselves having been clearly enough announced on their enactment, why should not their revocation be equally explicit?

While, however, numerous declarations have been made on the part of France, of the continued existence of the Decrees, and captures made under them of neutral ships have occurred, a few of the American vessels seized since November 1, have been restored, and the foregoing a very small part of his plunder, is desired by Buonaparte to be considered as a proof of the sincerity of his revocation by America; but it must be recollected, that besides the object of ruining the British resources, by his own unauthorized regulations, he has also that of endeavouring to obtain the aid of the United States for the same purpose; and herein you will, as I had the honour to remark in a former letter, be able to observe the cause of the apparently contradictory language held both by himself and his ministers.

I should be extremely happy to receive from you, Sir, the information that in a frank and unambiguous manner the Chief of the French Government had revoked his Decrees. Why he should not do so is inexplicable, if he means to revert to the ordinary rules of war; but while he exercises such despotic sway wherever his influence extends, to ruin the resources of England, it cannot be expected that Great Britain shall not use the means she possesses for the purpose of making him feel the pressure of his own system. There is every reason to believe that ere long the effects on the enemies of Great Britain, will be such as irresistibly to produce a change which will place commerce on its former basis. In the mean time, Sir, I hope you will not think it extraordinary if I should contend that the seizure of American ships by France, since November 1, and the positive and unqualified declarations of the French Government, are stronger proofs of the continued existence of the French Decrees, and the bad faith of the Ruler of France, than the restoration of five or six vessels, too palpably given up for fallacious purposes, or in testimony of his satisfaction at the attitude taken by America, is a proof of their revocation, or of his return to the principles of justice.

I will only repeat, Sir, in answer to your observations on the late condemnation of the ships taken under His Majesty's Orders in Council, what I have already had the honour to state to you, that the delay which took place in their condemnation, was not a consequence of any doubt existing in His Majesty's Government, as to whether the French Decrees were revoked, as you seem to imagine, but in consequence of its being thought that the American Government, upon its appearing that they were deceived by France, would have ceased their injurious measures against the British commerce. A considerable time elapsed before the decision took place on those ships, and there is no doubt, but that had the United States' Government not persisted in their unfriendly attitude towards Great Britain, on discovering the ill faith of France, a spirit of conciliation in His Majesty's Government would have caused their release.

In reply to your observations, on the pretensions of Great Britain, relative to the revocation of the French Decrees, I have to repeat, that the sum of the demands made by England is, that France should follow the established laws of warfare as practised in former wars in Europe. Her Ruler, by his Decrees of Berlin and Milan, declared himself no longer bound by them: he has openly renounced them in his violent efforts to ruin the resources of Great Britain, and has trampled on the rights of independent nations to effect his purpose. If the French Government make use of means of unprecedented violence, to prevent the intercourse of England with unoffending neutrals, can it be expected that England should tamely suffer the establishment of such a novel system of war without retaliation, and endeavouring in

her turn to prevent the French from enjoying the advantages of which she is unlawfully deprived?

Having explained, already, the situation in which the question of the blockade of May 1806, rests, according to the views of His Majesty's Government, and the desire of Great Britain to conduct her system of blockade according to the laws of nations, I will only advert to it on this occasion, for the purpose of taking the liberty of acknowledging to you the very great pleasure I received from the highly honourable mark of respect which you have taken the occasion to express for the illustrious statesman from whose counsels that measure emanated.

I need not repeat to you, Sir, what sincere satisfaction it would give me, if, without the sacrifice of the essential rights, and interests of Great Britain, all the points in discussion between our two countries could be finally adjusted.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Fourth Inclosure, referred to in No. 17.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, October 29, 1811.

I HAVE had the honour to receive your letter of the 22d of this month, and to lay it before the President.

The assurance which you have given of your disposition to reciprocate, in our communications on the important subjects depending between our Governments, the respectful attention which each has a right to claim, and that no departure from it was intended in your letter of the 26th July, has been received with the satisfaction due to the frank and conciliatory spirit in which it was made.

I learn, however, with much regret, that you have received no instructions from your Government, founded on the new proof of the revocation of the Berlin and Milan Decrees, which was communicated to the Marquess Wellesley, by the American Chargé d'Affaires at London, in a document of which I had the honour to transmit to you a copy. It might fairly have been presumed, as I have before observed, that the evidence afforded by that document, of the complete revocation of those Decrees, so far as they interfered with the commerce of the United States with the British dominions, would have been followed by an immediate repeal of the Orders in Council. From the reply of the Marquess Wellesley, it was at least to have been expected that no time had been lost in transmitting that document to you, and that the instructions accompanying it would have manifested a change in the sentiments of your Government on the subject. The regret, therefore, cannot but be increased, in finding that the communication, which I had the honour to make to you, has not even had the effect of suspending your efforts to vindicate the perseverance of your Government in enforcing these Orders.

I regret also to observe, that the light in which you have viewed this document, and the remarks which you have made on the subject generally, seem to preclude any other view of the conditions on which those Orders are to be revoked, than those that were furnished by your former communications. You still adhere to the pretension, that the productions and manufactures of Great Britain, when neutralized, must be admitted into the ports of your enemies. This pretension, however vague the language heretofore held by your Government, particularly by the Marquess Wellesley in his communications with Mr. Pinkney on the subject, was never understood to have been

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embraced. Nothing, indeed, short of the specific declarations which you have made, would have induced a belief that such was the case.

I have the honour to be, &c.

(Signed)

JAMES MONROE.

A. J. Foster, Esq.

(Fifth Inclosure, referred to in No. 17.)

Mr. Foster to Mr. Monroe.

Sir,

Washington, October 31, 1811.

I DID not reply at great length to the observations contained in your letter of the 1st instant, on the pretensions of Great Britain as relative to the French system, because you seem to me to have argued as if but a part of the system continued, and even that part had ceased to be considered as a measure of war against Great Britain. For me to have allowed this, would have been at once to allow, in the face of facts, that the decrees of France were repealed, and that her unprecedented measures, avowedly pursued in defiance of the laws of nations, were become mere ordinary regulations of trade. I therefore thought fit to confine my answer to your remarks, to a general statement of the sum of the demands of Great Britain, which was, that France should, by effectually revoking her Decrees, revert to the usual method of carrying on war, as practised in civilized Europe.

The pretension of France to prohibit all commerce in articles of British origin in every part of the continent, is one among the many violent innovations which are contained in the Decrees, and which are preceded by the declaration of their being founded on a determination of the Ruler of France, as he himself avowed, to revert to the principles which characterized the barbarism of the dark ages, and to forget all ideas of justice and even the common feelings of humanity, in the new method of carrying on war adopted by him.

It is not, however, a question with Great Britain of mere commercial interest, as you seem to suppose, which is involved in the attempt by Buonaparte to blockade her both by sea and land, but one of feeling and of national honour, contending, as we do, against the principles which he professes in his new system of warfare. It is impossible for us to submit to the doctrine that he has a right to compel the whole continent to break off all intercourse with us, and to seize upon vessels belonging to neutral nations, upon the sole plea of their having visited an English port, or of their being laden with articles of British or colonial produce, in whatsoever manner acquired.

This pretension, however, is but a part of that system, the whole of which, under our construction of the letter of M. Champagny, of August 5, 1810, corroborated by many subsequent declarations of the French Government, and not invalidated by any unequivocal declaration of a contrary tenor, must be considered as still in force.

In the communication you lately transmitted to me, I am sorry to repeat that I was unable to discover any facts which satisfactorily proved that the Decrees had been actually repealed, and I have already repeatedly stated the reasons which too probably led to the restoration of a few of the American ships taken in pursuance of the Berlin and Milan Decrees after November 1st. Mr. Russell does not seem to deny that the Decrees may still be kept in force, only he thinks they have assumed a municipal character; but in M. Champagny's declaration, ambiguous as it was, there is no such division of them into two different characters; for if the contingency required by the French Minister took place, the Berlin and Milan Decrees were to cease, according to his expression, without any qualification. If, therefore, a part of them remain, or be revived again, as seems to be allowed even here, why may not

the whole be equally so? Where proof can be obtained of their existence we have it; namely, in the ports of France, in which vessels have been avowedly seized under their operation since November 1. Of their maritime existence we cannot so easily obtain evidence, because of the few French ships of war which venture to leave their harbours. Who can doubt, however, but that, had the Ruler of France a navy at his command equal to the enforcing of his violent Decree, he would soon show that part of them to be no dead letter. The principle is not the less obnoxious, because it is from necessity almost dormant for the moment, nor ought it therefore to be less an object to be strenuously resisted.

Allow me, Sir, here to express my sincere regret that I have not as yet been able to convince you, by what I cannot but consider the strongest evidence, of the continued existence of the French Decrees, and consequently of the unfriendly policy of your Government in enforcing the non-importation against us, and opening the trade with our enemies. His Royal Highness will, I am convinced, learn with unfeigned sorrow, that such continues to be still the determination of America, and whatever restrictions on the commerce enjoyed by America, in His Majesty's dominions, may ensue on the part of Great Britain, as retaliatory on the refusal by your Government to admit the productions of Great Britain while they open their harbours to those of His Majesty's enemies, they will, I am persuaded, be adopted with sincere pain, and with pleasure relinquished, whenever this country shall resume her neutral position and impartial attitude between the two belligerents.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

No. 18.

Mr. Foster to the Marquess Wellesley.—Extract.

Washington, November 9th, 1811.

YOUR Lordship will have seen that, in consequence, as it would appear, of the conviction produced in the minds of the American Cabinet, of no change being likely to take place in the line of conduct adopted by Great Britain, more precise orders have been given to Mr. Barlow as to the language to be held by him in his discussions with the French Government, than had as yet been transmitted to any of the American Ministers at Paris. To what extent his instructions went I am unable to say, but Mr. Monroe's expression was, that a fair trade was demanded, and that if it were refused, restrictions would be put on the intercourse enjoyed by France with the United States; and above all, that the decision would be *prompt*.

If the commercial restrictions contained in the Non-Importation Act shall be extended to France, there will still remain an important clause of the law applicable only to Great Britain; namely, that relating to the exclusion of British ships of war from the American harbours. The settlement of the Chesapeake affair, which I hope must speedily take place, will, however, leave me at liberty to press in the strongest manner on the justice of this Government, the necessity of their putting the two belligerents on equal terms in this respect.

No. 19.

*Mr. Foster to the Marquess Wellesley.—Extract.**Washington, November 12th, 1811.*

I HAVE the honour to transmit inclosed to your Lordship, copies of the letters which have passed between me and the American Minister, on the subject of the Chesapeake Frigate.

*(First Inclosure referred to in No. 19.)**Mr. Foster to Mr. Monroe.*

SIR,

Washington, October 30, 1811.

I HAD already the honour to mention to you, that I came to this country furnished with instructions from His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, for the purpose of proceeding to a final adjustment of the differences which have arisen between Great Britain and the United States of America in the affair of the Chesapeake Frigate, and I had also that of acquainting you with the necessity under which I found myself of suspending the execution of these instructions, in consequence of my not having perceived that any steps whatever were taken by the American Government to clear up the circumstances of an event which threatened so materially to interrupt the harmony subsisting between our two countries, as that which occurred in the month of last May, between the United States ship President, and His Majesty's ship Little Belt, when every evidence before His Majesty's Government seemed to shew, that a most evident and wanton outrage had been committed on a British sloop of war by an American Commodore.

A Court of Inquiry, however, as you informed me in your letter of the 11th inst. has since been held by order of the President of the United States, on the conduct of Commodore Rodgers, and this preliminary to further discussion on the subject being all that I asked in the first instance, as due to the friendship subsisting between the two States, I have now the honour to acquaint you that I am ready to proceed in the truest spirit of conciliation to lay before you the terms of reparation which His Royal Highness has commanded me to propose to the United States' Government, and only wait to know when it will suit your convenience to enter upon the discussion.

I have the honour to be, &c.

A. J. FOSTER.

*The Hon. James Monroe.**(Second Inclosure, referred to in No. 19.)**Mr. Monroe to Mr. Foster.*

SIR,

Department of State, October 31, 1811.

I HAVE just had the honour to receive your letter of the 30th of this month.

I am glad to find that the communication which I had the honour to make to you on the 11th inst. relative to the Court of Inquiry, which was the subject of it, is viewed by you in the favourable light which you have stated.

Although I regret that the proposition which you now make in consequence of that communication, has been delayed to the present moment, I am ready to receive the terms of it whenever you may think proper to communicate them.—Permit me to add, that the pleasure of finding them satisfactory will be duly augmented, if they should be introductory to a removal of all the differences depending between our two countries, the hope of which is so little encouraged by your past correspondence. A prospect of such a result will be embraced, on my part, with a spirit of conciliation, equal to that which has been expressed by you.

I have the honour to be, &c.

JAMES MONROE.

A. J. Foster, Esq.

(Third Inclosure, referred to in No. 19.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, November 1, 1811.

IN pursuance of the orders which I have received from His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty, for the purpose of proceeding to a final adjustment of the differences which have arisen between Great Britain and the United States in the affair of the Chesapeake Frigate, I have the honour to acquaint you—First, that I am instructed to repeat to the American Government the prompt disavowal made by His Majesty, (and recited in Mr. Erskine's note of April 17, 1809, to Mr. Smith,) on being apprized of the unauthorised act of the officer in command of His naval forces on the coast of America, whose recall from an highly important and honourable command, immediately ensued, as a mark of His Majesty's disapprobation.

Secondly, that I am authorised to offer, in addition to that disavowal, on the part of His Royal Highness, the immediate restoration, as far as circumstances will admit, of the men, who in consequence of Admiral Berkeley's orders were forcibly taken out of the Chesapeake to the vessel from which they were taken; or if that ship should be no longer in commission, to such seaport of the United States as the American Government may name for the purpose.

Thirdly, that I am also authorised to offer the American Government a suitable pecuniary provision for the sufferers, in consequence of the attack on the Chesapeake, including the families of those seamen who unfortunately fell in the action, and of the wounded survivors.

These honourable propositions, I can assure you, Sir, are made with the sincere desire that they may prove satisfactory to the Government of the United States, and I trust they will meet with that amicable reception which their conciliatory nature entitles them to. I need scarcely add, how cordially I join with you in the wish that they might prove introductory to a removal of all the differences depending between our two countries.

I have the honour to be, &c.

A. J. FOSTER.

The Hon. J. Monroe.

(Fourth Inclosure, referred to in No. 19.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, November 12, 1811.

I HAVE had the honour to receive your letter of the 1st November, and to lay it before the President.

It is much to be regretted that the reparation due for such an aggression as that committed on the United States' Frigate the Chesapeake, should have been so long delayed; nor could the translation of the offending officer from one command to another, be regarded as constituting a part of a reparation otherwise satisfactory; considering, however, the existing circumstances of the case, and the early and amicable attention paid to it by His Royal Highness the Prince Regent, the President accedes to the proposition contained in your letter, and in so doing, your Government will, I am persuaded, see a proof of the conciliatory disposition by which the President has been actuated.

The officer commanding the Chesapeake, now lying in the harbour of Boston, will be instructed to receive the men who are to be restored to that ship.

I have the honour to be, &c.

JAMES MONROE.

A. J. Foster, Esq.

No. 20.

Mr. Foster to the Marquess Wellesley. Extract.

Washington, November 12, 1811.

I THOUGHT it right to inquire of Mr. Monroe, whether any steps had as yet been taken towards sending a Minister to England, as it had been intimated by him, that one of the earliest acts of the President, after the meeting of Congress, would be to nominate a person for that situation. I therefore took an opportunity to question him on this subject to-day, when to my surprise, I found a backwardness which amazed me, the Secretary of State laying much stress upon the unsatisfactory state of the relations between the two countries, and the doubts which the President still entertained lest the Senate, in the disappointment that prevailed at the continuation of His Majesty's Orders in Council, should be unwilling to confirm his nomination.

I made him recollect that I had not put forward the question of a new mission from this country, that the idea came from him, and that at his request, it was that I wrote to my Government that it would be one of the earliest acts of the President to send a Minister to London, having expressed his desire that His Royal Highness would not attribute the delay to any want of attention on the part of the President, but merely to the nature of the Constitution, which rendered the Senate's concurrence necessary. I am sorry to say, my Lord, that Mr. Monroe's answers were by no means satisfactory, and that there appeared to be more of design and contrivance in this affair, than he wished me to suppose.

He was more explicit on the subject of the demands made on France, than before, when I pressed him to allow me to give some clear ideas on this point to your Lordship. They have asked, it seems, to be allowed to trade freely with Denmark and Prussia, and other countries with which this country is on terms of friendship, and even to have a more open trade with France, and to

have a compensation for the losses suffered under the Rambouillet Decree, and he informed me that the President would recommend a heavy penalty to be imposed on such of their citizens as used French licences, and he even said he was persuaded if the French Consuls should continue to dispose of licences here, their exequaturs would be taken from them.

He added, that if on any important point, the French Government should refuse satisfaction, the resentment of this Government would be expressed, and on the receipt of Mr. Barlow's dispatches, the whole of their complaints would be laid before Congress, even to the most minute details, repeating, that restrictions would be placed on the French trade, if they continued theirs on that of America. I expatiated on the good effects of such resistance, when he observed, he thought the Message very explicit on this point, and that it ought to be enough for Great Britain to see cause to remove her Orders on the view of such language being held in this country.

No. 21.

Mr. Foster to the Marquess Wellesley.—(Extract.)

Washington, November 21, 1811.

I HAVE the honour to enclose a printed copy of a resolution of some importance moved by General Smith, the brother of the late Minister, which has passed the Senate; for requesting that the President would lay before them information as to the quantity of tobacco, the growth of the United States, consumed in France, or re-exported from thence to states in amity with France, with the duties laid thereon, of importation, and of transit; as also a tariff of the duties imposed by France on the produce and manufactures of the United States, as well as the difference between those duties, and such as are imposed on the same articles when imported into France from other states, either over land or otherwise.

I mention this resolution as being of some importance, because Mr. Monroe has called my attention to it, as shewing the intention of Congress to act upon that part of the President's Message which refers to the conduct of France. I will, however, confess that I did expect to have found that the President would have been requested to have supplied information on other restrictions on their trade which more particularly affect their neutral rights, instead of confining it to questions of mere mercantile loss, and I felt encouraged to hope, from different conversations which I had with Mr. Monroe, that the interference which France exercises in curtailing the lawful trade of the United States with countries not under her municipal jurisdiction, would have been made a subject of serious inquiry. I am positive that Mr. Monroe did give me intimations that the pretensions of France in this respect would be resisted, and redress for the injuries under the Rambouillet Decree demanded, and if there is now to be a change of language relative thereto, it must be considered as proof of a vacillating line of conduct, that must ever leave us at a loss to know how to calculate upon the sincerity of any of the professions of this cabinet, when a resistance to the arbitrary acts of the French Government is in question.

I must now acquaint your Lordship, that in a conference which I asked of the Secretary of State yesterday, for the purpose of urging him to answer my representation on the subject of the proceedings of enemy's privateers; after I had ended my complaints on that matter, and had learnt from him that great press of business had again delayed the answer, he informed me, as it were incidentally, that he was much occupied in preparing his dispatches to go by the United States' ship *Hornet*; and to a question I put, as to whether a Minister to Great Britain was soon to be nominated, with great surprize I learnt from him decidedly, that it was not the intention of this Government

to send one for the present, that the Congress would not confirm the appointment were it to be made, as the Orders in Council were not revoked, and Great Britain pursued measures which amounted to, and were considered as a war upon their commerce. I urged the surprise with which this determination would be received in Great Britain, so different from the communication which he had authorized me to make, in a conference solicited for the purpose by himself in the month of last August; but my observations were of no avail, and with infinite astonishment I listened to his assertions, that his Government had reason to believe Great Britain really wished for war with the United States.

Mr. Monroe declared, with some emphasis, that he had communications from Europe which confirmed him in this opinion; and when I requested of him to give some credit to my assurances of the contrary, and to the express declarations I had made on my arrival here, of the sincere desire of His Royal Highness to avoid a rupture with the United States, he merely repeated his former assertions, and on being pressed by me to say on what authority they rested, he said that letters received by his Government from Cadiz, informed them that Great Britain had been urging the Cortes to make war on the United States, by confiscating their ships. I dwelt upon the absurdity of such a report, as it would be absolute madness in Spain, struggling as she was against a host of enemies, to engage in hostilities with a power so able, from her situation, to annoy her as America; he owned it would be so, but said the report was not less true, and that Mr. Wellesley, His Majesty's Minister at Cadiz, was known to him to have urged the Cortes to such an act.

The only inference which I can draw from this extraordinary language, My Lord, is, that being decided on seizing East Florida, this Government are looking after every kind of pretext, and endeavouring to build on every false and momentary rumour, as a foundation to support them in their ambitious projects. They fear that the moral feelings of the mass of the population of these states would not go with them in the avowed and open contempt of justice which an attack upon Spain in the present moment of her distress would argue, and therefore wish to make an eventual seizure of Florida appear to be a measure of necessity and of self defence. Mr. Monroe broke up our conference, telling me that previously to the final making up of his dispatches he would send for me, and having taken the President's pleasure, would converse with me very openly on the views of his Government, and that our conversation might remain on record to be afterwards commented on. He told me, however, that he felt some difficulty in doing so, as, if he were to disclose the whole views of the Government, I might be disposed to see some of his disclosures in the light of menaces, which he was far from meaning they should be considered. I answered, that I would take his expressions as they should be meant to be understood, and that I should be ready to wait on him whenever he should appoint an hour for the purpose; on which I took my leave of him.

(Inclosure, referred to in No. 21.)

RESOLVED, that the President of the United States, be requested to cause to be laid before this House, information, whether tobacco, the growth of the United States, may be purchased, by the Administration, *en regie*, to the full extent of the consumption of France; if not, in what proportion may such tobacco be purchased by the Administration, *en regie*: whether the surplus of tobacco imported into France (and which may be transported through France into Germany, and other European States) is subjected to a transit duty; if so, what is the amount of such duty, and whether the surplus above-mentioned may be exported by sea to any country in amity with France; and also to cause to be laid before this House, a tariff of the duties imposed by France on such of the produce and manufactures of the United States, the entry of

which is permitted; and particularly, of tobacco, cotton, fish, oil, and dried fish; and stating, if any, the difference of duty charged on such goods imported from the United States, and similar articles when introduced into France from other states, either over land or otherwise.

No. 22.

Mr. Foster to the Marquess Wellesley.—(Extract.)

Washington, November 25th, 1811.

WHEN I asked Mr. Monroe if there was any new ground on which his Government could now require a repeal of our Orders, and if there would be a resistance on the part of America, to the French municipal regulations, as they had been called here; he answered, that he could assure me, the United States were not satisfied with the restrictions imposed on their trade by France, as was shewn by the President's Message. I then alluded to the resolution that had been brought into the Senate, (referred to in my dispatch of the 21st of November) but he said, it was difficult for this country to consider the restrictions imposed on their trade, through the influence of the French Government, in ports of countries not under the jurisdiction of France, as proceeding from the Government of France; that they meant to resist the French restriction in Holland, and the ports of Spain occupied by the French, and wherever the French immediately governed; but that in Prussia and Denmark, and countries similarly situated, excepting, what he called, the piracies which were committed in the Baltic, the acts of injustice done must be attributed to those Governments, as long as they had the appearance of being independent; and Mr. Erving had been sent to that of Denmark, to demand redress of the Danes for the wrongs done to the United States within their waters. America, he then said, felt herself independent of either France or England, and would place France on the same footing on which she placed America, if she persisted in her restrictions. He assured me, with great appearance of sincerity, that an accommodation with England was very much desired here; that he was confident, if we repealed our Orders, the consequences would be the most friendly relations between the United States and Great Britain, and the good effect would be felt on the commerce of Great Britain in every quarter; but that if any unpleasant consequences should result from the present state of things, this Government would have the consolation to reflect, that they could not be imputable to the United States.

The above is altered from the draft I made of Mr. Monroc's language to me yesterday, for as he had opened his discourse seriously, and had invited the conference for the special purpose of explaining the intentions of his Government, I repeated to him to-day the substance of what I had written, in order that I might be sure I had not misapprehended his meaning: he desired several of his expressions, which he thought might convey the idea of menaces to either France or England, to be altered, and I am sorry to say, evidently shewed a strong disinclination to being represented as having spoken in terms of any strength, against the injustice towards this country of the French Government.

Indeed I must confess that his language, combined with that of the President, had led me to suppose that a very serious remonstrance, if not made already, would be now made to France on her injurious restrictions; such a one, in fact, as would either procure complete justice to the United States, or place America in a firmer attitude than she has hitherto taken in her discussions with that Power.

I must request your Lordship to have the goodness to crave the gracious indulgence of His Royal Highness, if the accounts I endeavour to render of the intentions of this Government appear contradictory. It is natural to

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imagine, that no surer criterion of their intentions could be found, than in the language held by their Ministers, and in the evident interests of the nation, which can never be consulted by hazarding an unjust war against Great Britain. The United States' Government, however, in reality, appear to be either insincere in the language they use, or undecided as to the line of policy they intend to pursue, which latter might, perhaps, be the best way of accounting for the different tones they have held of late.

The measure of arming the merchant vessels, as the Secretary of State told me to-day, will be soon taken, in all probability, by Congress; and it seems generally believed, that convoys will also be appointed in the American seas. I mean to seek another conference, in order to urge the danger of such a measure, and the impolicy of it, if America expects any change in the conduct of His Majesty's Government, and to result from the appearance of a disposition to oppose the restrictions of France, which this Government evidently desired I should represent in my late dispatches.

Mr. Monroe, I should add, observed, (which seemed scarcely necessary) that the American merchant vessels would, he believed, be armed for defence, not for offence.

No. 23.

Mr. Foster to the Marquess Wellesley.—(Extract.)

Washington, November 27th, 1811.

THE Government of the United States has been so long delaying from day to day to send the ship "Hornet," that I write a line by a merchant vessel, to say, that Mr. Monroe has told me, that the Congress will, in a few days, as he believes, resolve, that American merchants should be allowed to arm their vessels, and that no Minister would, for the present, be appointed to Great Britain.

No. 24.

Mr. Foster to the Marquess Wellesley.—(Extract.)

Washington, December 11th, 1811.

ONE of the Members of Congress permitted himself, in order to strengthen the impression he wished to make by his speech, to assert, that in the late attack made by the Indian tribes on the United States' troops, it was evident the savages had been instigated by British Agents, sent among them for the purpose.

In such an infamous charge, I am glad to say, he was not supported by many persons; one Member, indeed, repeated the charge, but he modified it the following day: as the former, however, has not done so, I thought fit to send a note, of which the inclosed is a copy, to Mr. Monroe, wherein, avoiding a direct allusion to the Honourable Representative in question, I have expressed the surprise and regret with which I had learnt that it had made an impression on the minds of men of such enlightened understanding, denying at the same time the charge, and declaring it utterly unfounded.

(Inclosure, referred to in No. 24.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, December 13th, 1811.

HAVING seen in some of the public journals of this country, which are in the habit of uttering the foulest aspersions on His Majesty's Government and the British nation, positive assertions, that in the late acts of hostility committed by Indian tribes on the United States, the savages were instigated by Great Britain; nevertheless, I should not have thought it necessary to have taken any notice of the charge, had I not learnt, to my infinite regret, that notwithstanding the manifest absurdity of the report, it had been able to make an impression on the minds of enlightened individuals, high in the confidence of their country, and who from their station and respectability, have given it an importance that could not otherwise have appertained to it.

I will not, Sir, suppose the motives which may have actuated the inventors of so infamous a falsehood. The principal grounds on which they rest their assertion is, that trifles, of British manufacture, as they say, have been found among the Indians who were slain in the engagement. It is sufficiently obvious, however, that these had been obtained in the lawful course of trade, as were probably those, if they had any, of American manufacture. To you, Sir, however, who are acquainted with the high sense of national honour which animates the British nation, it is superfluous for me to dwell on the improbability of a similar act of perfidy having been promoted by Great Britain, or on the absolute want of any kind of motive to urge the remains of the poor Indian nations to their unavoidable destruction.

I beg leave, Sir, most unequivocally, in the name of my Government, to deny the charge in question, and to declare it a fabrication altogether unworthy of the slightest degree of credit.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

No. 25.

Mr. Foster to the Marquess Wellesley.—(Extract.)

Washington, December 18th, 1811.

I HAD the honour to receive on the 8th instant, your Lordship's dispatch of the 26th of August, with its inclosures, comprehending the copies of a letter from Mr. Smith, the American Chargé d'Affaires, in London, to you, and of two letters from your Lordship in reply, together with a paper marked D. for my information and guidance during the progress of my negociation.

You will have seen, my Lord, from my past correspondence, that the ground taken by America, almost precludes the hope of any good resulting from further negociation. I waited, however, on Mr. Monroe, soon after I received the above-mentioned dispatch, more out of attention to him, as he seemed to have expected that the arrival of the packet would have brought me fresh instructions, than from any expectation of producing a change in his opinions by the new arguments, however strong, with which your Lordship had furnished me.

The Secretary, though he tried to conceal his sensations, evidently shewed great anxiety when I announced the arrival of the packet; and when I informed him I had nothing to communicate, he seemed much disappointed, until he was made acquainted, that my dispatches of last July had but just reached

London at the moment my letters were sent off; and that your Lordship having been in the country, no answer to them could possibly have as yet been received by me.

I adverted to the want of proof, even in Mr. Russell's and Mr. Smith's correspondence, of the repeal of the French Decrees, and told him that His Majesty's Government desired to see a copy of the instrument by which the repeal was effected, urging that the French system of granting licences to American ships, might be considered as proof of the continuance of the Decrees.

Mr. Monroe, while he told me that he thought very little good could now be effected by continuing our discussions, every argument on both sides being, as he said, exhausted, and seemed, though in a very civil manner, to deprecate it as useless; allowed that no instrument, such as I alluded to, had been exhibited to him, informing me that he had asked if such a document existed, of M. Serrurier, who, he said, seemed surprised at the question, considering the declaration of his Government relative to the cessation of the Decrees as sufficient, and knowing nothing of any instrument by which that cessation was effected. I observed, that it was, however, important we should see a copy of the instrument, if it existed, as it alone could shew to what extent the repeal went, if indeed any repeal had been intended by France.

Mr. Monroe told me, in the course of the conversation, that it was but lately that he had asked the question above stated of M. Serrurier.

Notwithstanding Mr. Monroe's disinclination for further discussion, and the apparently decided disposition of the Congress, I have judged it expedient to write him another note, of which I have the honour to transmit a copy inclosed to your Lordship, wherein I alledge as the reason for my addressing him, certain reports which have been circulated most industriously through this country, for the purpose of irritating the people, by representing me as interfering in its internal Government, and as insisting on their forcing the entry of British manufactures into France. I have endeavoured, in refuting these calumnies, to place our demands on America in their just and true point of view, and to draw from this Government an explanation with respect to the licence system, as pursued by France in the ports of the United States, and with respect to the mode by which they suppose the French Decrees to have been repealed, while I have not failed to use the impressive language of the paper marked D. in my allusions to that part of the Non-Importation Act, which is most directly in contradiction with the duties of a neutral nation.

(Inclosure, referred to in No. 25.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, December 17, 1811.

I DID not mean to have written to you at this moment on the subject of our late correspondence, but that I have had the mortification to perceive statements, circulated from highly respectable sources, which give a view of the pretensions of Great Britain relative to the United States, not warranted by any of the letters which I had the honour to address to you, and which at a time when discussions are continuing so important to the two countries, might, if left unrectified, produce an effect highly to be lamented by both the American and British Governments, inasmuch as by creating unnecessary irritation, they might throw obstacles in the way of a restoration of a friendly understanding between them.

I find it asserted in the statement referred to, that I have, in the name of my Government, demanded that the United States Government should pass a law for the introduction of British goods into the American ports, and also that the United States should undertake to force France to receive into her harbours British manufactures.

I beg permission, Sir, to declare that neither of these demands have been made by me, and that my meaning, must have been understood, if such was conceived to have been its import. I could not have demanded the passage of such a law as above stated, because my Government does not pretend to interfere with the internal Government of a friendly power, nor did I mean to demand that America should force France to receive our manufactures.

All I meant to say was, that the admission of French commerce, while that of England has been excluded from the United States' ports, was regarded by Great Britain as highly unfriendly in America, and that a continuation of such policy would be retaliated upon by Great Britain, with similar restrictions on her part, which was so far merely an offering of like for like. But while the American Non-Importation Act excludes British trade from the United States' ports; it must be recollected, that it goes still further, and excludes also British armed ships from American ports, while it admits those of the enemies of Great Britain. "A neutral nation is responsible for the equality of its rules of conduct towards the belligerent powers," (to use the words of an American Secretary of State in the year 1796) and, therefore, the part of the law which establishes an inequality was justly an object of most serious complaint on the part of Great Britain. You are aware, Sir, of the advantage which His Majesty's enemies have derived from this state of inequality, which enables them, though possessing no port in this hemisphere, continually to prey on the trade of His Majesty's subjects, secure of a refuge for their cruisers and their prizes.

The prohibition of entry to His Majesty's ships under these circumstances might perhaps justify Great Britain in asserting, that whatever reason she may have for repealing or modifying her Orders in Council, so as to lessen or entirely remove the pressure now unavoidably laid on the trade of America as a neutral nation, she might yet refuse to enter into any discussion on that subject with the United States, until either by the revocation of the prohibition above stated, or the placing all the belligerents under the same prohibition, America should cease to violate the duties of a neutral nation.

With respect, however, to the supposed demand that America should force the entry of British manufactures into France, it is most particularly necessary that I should explain myself, as a total misconception appears to have taken place upon this point. The question of retaliation on the French Decrees is directly one between England and France. In consequence of the extraordinary blockade of England, we have in our defence been obliged to blockade France, and prohibit all trade in French articles in return for the prohibition by France of all trade in English articles. This measure of retaliation, it is wished, should operate on France alone, but from the trade carried on with France by America, it unavoidably operates also on her; it is a measure to destroy the French trade in return for the similar measure of France, on which it is retaliatory, and its acting on neutrals is an incidental effect of it, consequent upon the submission of neutrals to the original measures of the enemy against Great Britain. It is, indeed, melancholy that the unnatural situation of Europe should produce such a result, but I cannot see how this can be considered as war on American commerce, when all other American trade, but that which is carried on with our enemy's ports in defiance of a blockade authorised by the laws of retaliation, is unaffected by it. We complain that America does not resist the regulations of the Berlin and Milan Decrees, and object to permitting the French to trade with her during their continuance against the commerce of England; but this is not exacting, as has been represented, that America should force British manufactures into France; it is pursuing only a just course of retaliation, on our enemy. If America wishes to trade with France, if French commerce is of importance to her—we expect she should exact of France to trade with her as she has a right to demand in her quality of neutral; but if she does not choose to exercise this right, all we ask is, that she should abstain from lending her assistance to the trade of France, and not allow her commerce to be a medium of undermining the resources of Great Britain.

I have thought it necessary thus to endeavour to set these two points in their true light; the repeal of the law was asked, as being an unfriendly measure, partial in its operation against Great Britain, and a prospect of retaliation was held out on its commercial operation if continued. This is no demand on the United States to admit British manufactures; they are at liberty to continue that law; only as it is of an unfriendly nature, some restriction of a similar kind was to be expected from England; and with respect to the alleged demand for forcing British goods, the property of neutrals, into French ports, if the United States are willing to acquiesce in the regulations of the French decrees unlawfully affecting England through them, they cannot surely be surprised if we consider ourselves at liberty to refuse permission to the French to profit by that acquiescence.

I will now, Sir, take the opportunity of stating to you, that I have received from His Majesty's Secretary of State, the correspondence of which you did me the honour to transmit to me a copy in your letter dated October 17. My Government have not been able to see in it satisfactory proof of the repeal of the French Decrees, and doubt whether the trade carried on by licences between France and America, will not be regarded, even here, as proof of the continuation of them in their fullest extent, for if they were to any extent repealed, to that extent at least no licence should be necessary, a licence being given to allow what, but for that licence, would be prohibited.

The continued absence hitherto of any instrument by which the repeal has been effected, is a matter also of surprise; for if there were any fair dealing in the transaction, no reason can be given by France for not producing it; it is very desirable that it should be produced, if such an instrument be in existence, in order that we may know to what extent the Decrees have been repealed, if they really have been so in any respect. Mr. Russell, however, does not appear to have been in possession of it at the date of his letter of last July. It is, indeed, become particularly interesting, that we should see this instrument since the publication of Mr. Russell's correspondence with his own Government, by which it appears, that really, and in fact, the French Government did not release any American ships taken after November until they had become acquainted with the President's Proclamation, and that vessels have been taken so late as December 21, in the direct voyage from this country to London; for until a copy of such instrument is produced, it is impossible to know whether any other trade is allowed by France than that between her own dominions and the ports of the United States.

I have the honour to be, &c.

(Signed)

A. J. FOSTER,

The Hon. James Monroe.

No. 26.

Mr. Foster to the Marquess Wellesley.

MY LORD,

Washington, December 20, 1811.

IN consequence of Mr. Monroe's acceptance of the terms of réparation offered, on the part of His Royal Highness, in the affair of the Chesapeake, I wrote a letter, of which an extract is inclosed, to Rear-Admiral Sawyer, requesting him to take the necessary measure for restoring the seamen who had been impressed from that ship.

I also sent an informal note to Mr. Monroe, with a list of the men who had been so impressed, specifying those who were still alive at the date of the last accounts, and suggesting the expediency of an inquiry being instituted by order of the United States' Government, for the purpose of ascertaining where the individuals were to be found, who were entitled to a pecuniary provision under the arrangement. I have the honour to transmit a copy of

this note, to which no answer has as yet been returned. I beg to add, that I much doubt if the United States' Government will authorise the acceptance, by the sufferers, of the provision in question. I have not as yet heard from Admiral Sawyer, in answer to my above-mentioned letter.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Marquess Wellesley,
&c. &c. &c.

(First Inclosure, referred to in No. 26.)

Mr. Foster to Rear-Admiral Sawyer.—(Extract.)

Washington, November 13th, 1811.

I HAVE the honour to inform you, that, in consequence of a Court of Inquiry having been held on the conduct of Captain Rodgers, and its proceedings having been officially communicated to me by the American Secretary of State, I have thought myself at liberty to proceed to carry into execution, my instructions from His Royal Highness the Prince Regent, for offering terms of reparation, in the case of the frigate Chesapeake, and I have accordingly proposed them to the United States' Government, which has agreed to accept them.

One of the conditions engages for the immediate restoration, as far as circumstances will admit, of the men, who, in consequence of Admiral Berkeley's orders, were forcibly taken out of the Chesapeake to the vessel from which they were taken; or, if that ship should be no longer in commission, to such sea-port of the United States, as the American Government may name for the purpose.

In Mr. Monroe's answer to me, it is stated to be the wish of the American Government, that the men should be conveyed to the Chesapeake frigate, now lying at Boston. I have, therefore, the honour to request that you will take what measures may to you seem most fitting, for speedily fulfilling the engagement entered into, in this respect, on the part of His Royal Highness

(Second Inclosure, referred to in No. 26.)

Mr. Foster to Mr. Monroe.

Washington, November 18th, 1811.

MR. FOSTER has the honour to present his respects to Mr. Monroe, and to send him the inclosed copy of a memorandum, respecting the situation of the seamen who were taken from on board the Chesapeake frigate, at the latest period when any information was had respecting them. By this memorandum, it appears that only two of the four individuals named in it, were known, at its date, to be in existence. Mr. Foster has, therefore, written to Rear-Admiral Sawyer, who commands His Majesty's naval forces on the Halifax Station, to request that he will take measures for the speedy delivery of those two individuals, to the officer commanding the United States' frigate, Chesapeake, at Boston, according to the desire expressed on the part of the American Government, on that officer's giving a receipt for the same.

Mr. Foster begs leave to suggest the expediency of an inquiry being set on foot, by order of the United States' Government, as to where may be found those individuals, who are entitled to the pecuniary provision which has been offered to the sufferers, in consequence of the attack on the Chesapeake, including the families of those who fell in the action, and of the wounded survivors.

He seizes the occasion to reiterate. &c.

No. 27.

Mr. Foster to the Marquess Wellesley.

MY LORD,

Washington, December 21, 1811.

I HAVE the honour to transmit enclosed, to your Lordship, a copy of a letter which I addressed to Mr. Monroe, on receiving information from Mr. Consul-General Barclay, that the cargo of the British ship, *Tottenham*, some time since carried into New York, as prize to the French privateer the *Duke of Dantzic*, had actually been permitted to be sold, on pretext of repairs wanted by the ship, although no repairs had been made on her, nor appeared intended to be made, and that the proceeds of the sale were probably double the amount necessary to pay for any wanted.

I have also the honour to inclose a copy of Mr. Monroe's reply, which your Lordship will observe takes no notice whatever of my former complaints, but promises that an inquiry will be made into all the circumstances of the case, and suitable measures taken to cause the laws applicable to it to be duly enforced.

I should acquaint your Lordship, that on an occasion which I took to urge to the President, the injustice and breach of neutrality evinced in the exclusion of British ships of war from American harbours, while those of France were admitted, remarking upon this not having been the case when the Non-Intercourse Act was in force against France alone, French ships of war having then been excepted; he observed, that he thought this country was not tied down to any particular mode in which they should resent the wrongs done to them, and as he did not seem disposed to discuss the question further, I suffered it to drop; but your Lordship will have seen, that I have not lost sight of it in my last note on the Orders in Council.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Marquess Wellesley,
&c. &c. &c.

*(First Inclosure, referred to in No. 27.)**Mr. Foster to Mr. Monroe.*

SIR,

Washington, December 13th, 1811.

I MUST beg to refer you to my letter of September 1, which relates to the infringement committed on the neutrality of the United States, in the case of the British ship *Tottenham*, which was taken in the West Indies by the French privateer, *Duke of Dantzic*, and sent by her into the harbour of New York, on the 28th of last August, where she has been suffered to continue ever since, under pretence of wanting repairs, which, however, she has never thought proper to make.

While I have received no answer as yet from you, Sir, I am informed by His Majesty's Consul-General at New York, that the captors of the *Tottenham*, have recently had permission granted them to sell the whole cargo of that ship; and Mr. Barclay further tells me, that he is satisfied the captors had no intention of repairing her, but that their only object was to realize the amount of the cargo, which came to 20,000 dollars, a sum he thinks double what could be the cost of any repairs or local expences which she might have incurred.

The French at present rarely can get a prize into a French port, and therefore, generally, burn the British ships which fall into their hands; and although their being forced to destroy such ships and cargoes, is no advantage to His

Majesty's subjects; it takes away from Frenchmen the principal inducement for fitting out privateers. If, therefore, permissions similar to those above-mentioned are to continue to be granted, and commanders of French privateers are thus to find encouragement to send their prizes to the ports of the United States, while even admission to His Majesty's ships is denied, the injury occasioned to His Majesty, and to his subjects, must necessarily be great, the American harbours while they are closed as ports of refuge, but to one of the belligerents, thereby becoming the safest places of resort and markets for the other.

I have reason to fear, Sir, that it is in question at New York, to sell the ship *Tottenham* also for the benefit of the captors. I therefore hope, that orders will, with as little delay as possible, be sent to the Collector to put a stop to all further proceedings, and for arresting the proceeds of her cargo for the benefit of British shippers and owners.

I have the honour to be &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Second Inclosure, referred to in No. 27.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, December 18, 1811,

I HAVE had the honour to receive your letter of the 13th instant, it which you state, that the French privateer, the *Duke of Dantzic*, had carried into the port of New York, the British ship *Tottenham*, as prize, and that the captors had recently been permitted to sell the whole of the cargo, under the pretext of making repairs, which there was reason to believe were not intended to be made, the real object being to sell the cargo and ship herself.

I have the honour to state to you, that inquiry shall be made into all the circumstances of this case, and that suitable measures will be taken to cause the laws that are applicable to it to be duly enforced.

I have the honour to be, &c.

(Signed)

JAMES MONROE.

A. J. Foster, Esq.

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AMERICA.

CORRESPONDENCE

BETWEEN

VISCOUNT CASTLEREAGH,

AND

MESSRS. FOSTER AND BAKER.

MARCH TO AUGUST 1812.

D.

PRESENTED TO BOTH HOUSES OF PARLIAMENT, BY COMMAND OF HIS ROYAL
HIGHNESS THE PRINCE REGENT, FEBRUARY 1813.

LIST OF PAPERS.

D.

			1812.
No. 1.	Viscount Castlereagh to Mr. Foster	(6 Inclosures)	19th March,
2.	Ditto to Ditto	(1 Inclosure)	Ditto,
3.	Ditto to Ditto	(1 Inclosure, with translation)	10th April,
4.	Ditto to Ditto		Ditto,
5.	Ditto to Ditto	(3 Inclosures)	Ditto,
6.	Ditto to Ditto		17th April,
7.	Ditto to Ditto		7th May,

			1812.	Received by Viscount Castlereagh.
8.	Mr. Foster to the Marquess Wellesley	(3 Inclosures)	17th Jan.	20th Feb.
9.	Ditto to Ditto	(1 Inclosure)	18th Jan.	Ditto,
10.	Ditto to Ditto		1st Feb.	6th March,
11.	Ditto to Ditto		29th Feb.	4th May,
12.	Ditto to Ditto	(1 Inclosure)	9th March,	Ditto,
13.	Ditto to Ditto	(1 Inclosure)	1st April,	12th May,
14.	Ditto to Ditto	(1 Inclosure)	1st April,	Ditto,
15.	Ditto to Ditto		2d April,	Ditto,

			1812.	
16.	Mr. Foster to Viscount Castlereagh	(1 Inclosure)	23d April,	Received 4th June.
17.	Ditto to Ditto		24th April,	Ditto,
18.	Ditto to Ditto		5th May,	Ditto,
19.	Ditto to Ditto	(2 Inclosures)	15th May,	6th July,
20.	Ditto to Ditto		28th May,	Ditto,
21.	Ditto to Ditto		6th June,	8th July,
22.	Ditto to Ditto	(7 Inclosures)	8th June,	Ditto,
23.	Ditto to Ditto	(5 Inclosures)	9th June,	Ditto,
24.	Ditto to Ditto	(7 Inclosures)	18th June,	20th August,
25.	Ditto to Ditto	(3 Inclosures)	20th June,	Ditto,
26.	Ditto to Ditto		21st June,	Ditto,
27.	Ditto to Ditto	(8 Inclosures)	24th June,	Ditto,
28.	Ditto to Ditto			21st August,

			1812.	
29.	Mr. Baker to Viscount Castlereagh		17th July,	Received 24th August.
30.	Ditto to Ditto		23d July,	Ditto,
31.	Ditto to Ditto		25th July,	10th Sept.
32.	Ditto to Ditto	(2 Inclosures)	26th July,	Ditto,
33.	Ditto to Ditto		24th August,	5th Oct.

[CLASS D.]

B

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P A P E R S

RELATING TO

A M E R I C A.

D.

No. 1.

Viscount Castlereagh to Mr. Foster.

SIR,

Foreign Office, March 19, 1812.

I HAVE received His Royal Highness the Prince Regent's command to transmit to you the enclosed papers, in order that you may lay the same before the American Government, at the time and in the manner you may judge most expedient.

You will perceive, that they relate to English seamen who have been detained against their will on board certain ships of war of the United States, which have of late visited the ports of Great Britain.

Under the present circumstances, as affecting the relations between this country and the United States, His Royal Highness's Government have been most unwilling to press on the United States' Government any fresh subjects of irritation; and His Royal Highness is sincerely disposed to believe, that these several sources of complaint have originated without the concurrence or participation of a State with which He is so anxious to preserve an amicable and friendly intercourse.

You are not, therefore, to consider yourself instructed to accompany your communication of the facts contained in these papers to the American Government, with any strong expressions of complaint or dissatisfaction on the part of His Royal Highness, as the Prince Regent is disposed to believe, that the Government of America has only to be informed of the fact, to take prompt and satisfactory measures for the correction of the practice.

The American Government will likewise perceive from this amicable communication, that it is not on that side of the water alone, that the inconvenience necessarily resulting from the similarity of habits, language, and manners between the inhabitants of the two countries, is productive of subjects of complaint and regret. These are, however, at the same time, natural and strong inducements for a readiness to give and receive mutual explanations upon all subjects of difference; and you may repeat to Mr. Monroe, for the information of his Government, that the Government of His Royal Highness the Prince Regent, will continue to give the most positive orders against the detention of American citizens on board His Majesty's ships; and that no difficulties beyond what are requisite for clearly ascertaining the national character of individuals whose cases are brought before the Lords Commissioners of the Admiralty, will be interposed to prevent or delay their immediate discharge.

The Earl of Liverpool, whilst he held the seals of this department, and interim, was commanded to make known to Mr. Russell the case of William

Bowman, stated by the affidavit of his wife, to be forcibly detained on board the United States' ship Hornet. The departure of this vessel precluded Mr. Russell from making the necessary representation to the commanding officer of the Hornet. You will, however, communicate the circumstance to the American Government; and I have no doubt that you will obtain his ready release.

Of the papers above referred to, that marked No. 1. contains the statement upon oath of Charles Davis, an Irishman by birth, who was lately a seaman on board the United States' frigate Constitution.

No. 2, contains the report of English seamen on board of the United States' ships Constitution and Wasp. No. 3, contains a statement of the real name and birth of William Smith. No. 4, contains the affidavits of George Warren and Daniel Murphy, British seamen, who left the American ships Constitution and Hornet, and the affidavit of Elizabeth Bowman, above alluded to. No. 5, contains the deposition upon oath of John Taylor, alias William Smith. No. 6, contains the correspondence between the Earl of Liverpool and Mr. Russell, on the subject of Bowman.

I have the honour to be, &c.

(Signed)

CASTLEREAGH.

A. J. Foster, Esq.

(First Inclosure, referred to in No. 1.)

Admiral Sir Roger Curtis to Mr. Croker.

SIR,

Royal William, Spithead, Nov. 16, 1811.

Chas. Davis.

Agreeably to the direction of the Lords Commissioners of the Admiralty, signified to me by your letter of the 14th inst. marked "Secret," I have caused the deposition of the man named in the margin, who escaped from the United States Frigate Constitution, and is now on board the Royal William, to be taken before one of His Majesty's Justices of the Peace for the County of Southampton; and I herewith transmit the same to be laid before their Lordships.

I am, &c.

(Signed)

ROGER CURTIS.

J. W. Croker, Esq.

(Paper referred to in First Inclosure of No. 1.)

Deposition of Charles Davis.

County of } CHARLES DAVIS, a seaman, late belonging to the Ame-
Southampton. } rican United States' frigate Constitution, commanded by
Captain Hull, now lying at Spithead, maketh oath and saith, That he was born in the parish of St. Mary's, in the city of Dublin, in Ireland. That he was christened in the Roman chapel in Francis-street, in the said parish, by Father Kavines, Roman Priest of the said chapel; that he is about twenty-five years of age, the day of his birth he does not know; that he lived with his father and mother in the parish of St. Mary's aforesaid, until he was about nine years of age; that in or about the ninth year of his age, he was apprenticed to Edward Murphy, then of Fleet-street, in the city of Dublin, mariner, for the term of five years; that this deponent sailed with the said Edward Murphy for two years, in a ship called the Valentine, of Dublin, of the burthen of about 500 tons, of which the said Edward Murphy was master, and Mr. O'Hara of Ormond Quay, Dublin, was owner; that about the end of two years, the said Edward Murphy died, and the deponent then went

on board a ship called the *Thalia*, of London, then in the transport service; Captain M'Koy, Commander, that he stayed in her about eleven months, and was discharged from her in the Island of St. Christopher in the West Indies, that he then entered on board the *Kingsman*, a merchant ship of Liverpool, of which Messrs. Humble and Hollands, of Liverpool, merchants, were owners; that he went to Liverpool in her, and remained there about five weeks, and then entered on board the *Princess Amelia*, of Liverpool, Charles Dixon, master, and the said Messrs. Humble and Hollands the owners thereof, that he sailed in her to the coast of Africa, and from thence to Dominica in the West Indies, with slaves, and then sailed to Grenada in the West Indies, and returned with a lading of sugar and coffee to Liverpool (being about six years ago); that he remained at Liverpool about nine weeks, and then shipped on board the brig *Anne* of that place, commanded by Captain Molineaux, of which the said Messrs. Humble and Hollands were owners; that he sailed in her to Antigua in the West Indies, and was, in or about the latter end of the month of February 1807, impressed by Lieutenant Dwyer, of His Britannic Majesty's schooner *St. Lucie*, Charles Gordon, Esq. Captain, that he continued in her about fourteen days, until she was captured by two French private schooners of war, called *La Frisson* of fourteen guns, and *La Vengeance*, of five guns of 18 pounds each, near Basseterre, in Guadaloupe; that he was taken with the others of the crew of the *St. Lucie* to the Jail at Basseterre, and remained there fifteen weeks, that during that time two cartels arrived from Admiral Cochrane to exchange them, but the exchange was refused on account of the Governor of Guadaloupe saying that the said Lieutenant Dwyer was a Frenchman, that at the end of the fifteen weeks, His Britannic Majesty's ships *Cerberus*, Captain Selby, Northumberland, *Prince George*, and *Belleisle*, came to an anchor at Basseterre, and sent the *Cerberus* into the harbour as a cartel for them, when they were all (except Lieutenant Dwyer, who was detained) sent on board of her; that this deponent was immediately drafted with the others on board the *Northumberland*, and remained there about five weeks, when the said Captain Gordon was tried by a Court Martial, on board His Majesty's ship *Ramilles*, at Barbadoes, for the loss or capture of the *St. Lucie*, after which Captain Gordon procured this deponent's discharge from the *Northumberland*; and this deponent lived at the house of Captain Gordon about fourteen or fifteen days; that Captain Gordon then came to England; that this deponent then went on board the *William Heskett*, a merchant ship of Liverpool, Mr. Braid, owner, and in or about the month of August 1807 arrived in her at Liverpool; that he worked as a rigger at Liverpool for about three years, during which time he was employed there by Messrs. Smith, Braid, Fitzgerald, Humble, Hollands, and others, that on or about the 6th day of August 1810, he sailed in the brig *Margaret*, of Liverpool, Captain Quirk, and whereof the said Mr. Braid was owner, for Charlestown, in the state of South Carolina, in North America, where she arrived about the 2d of October 1810; that he remained on board until the 6th day of October following, and then went on shore, with liberty from Captain Quirk, and went to a public or boarding-house, with his then shipmates, Thomas Cox, John Rice, and William Steward; that the name of the landlord was Thomas Hollands; that this deponent got drunk at the said house, and he does not know what then passed; and on the following morning he found himself on board the American United States' sloop of war *Wasp*, of which Jacob Jones was Captain; that he does not know by what means he was put on board her, further than that he was informed by John Burke, Henry Thompson, and Timothy Lane, seamen, belonging to the said sloop of war *Wasp*, that he was brought down to Mr. Moore's Wharf at Charlestown, on a dray, drunk, by the said Thomas Hollands, who put the deponent into the boat of the *Wasp*, and desired the said John Burke, Henry Thompson, and Timothy Lane, to shove off, and put him on board the said sloop of war *Wasp*, which they did; that on the morning of the 7th of October 1810, he went on the quarter deck of the *Wasp*, and told Lieutenant Inglis, her first Lieutenant, that he was an Englishman, and that he

wanted to go on board the sail brig Margaret, and pointed to her, that Lieutenant Inglis said he would see the deponent damned first, "for the English keep Americans, and I will keep you." That this deponent told him he should not keep him for he could swim like a fish, and the first opportunity he could get, he would leave him; that Lieutenant Inglis called the master at arms of the Wasp, and directed him to put the deponent in irons, which was done; that he remained in irons about fifteen days, when the Wasp went out on a cruize off Charlestown, and the deponent was liberated, and he did duty in the fore-top; that the Wasp remained out about eighteen days, and then returned to Charlestown, and as soon as she came to an anchor he was put in irons again, that during the said cruize the deponent was much dissatisfied, and often refused to do his duty, for which his grog was stopped. That this deponent remained in irons a second time, twelve days, and on the night of the last day, he, with his knife, undid the forelock of his irons, and got free, that he swam on shore to Charlestown, and walked from thence to Savannah, in the State of Georgia, in America (one hundred and twenty-four miles). That at the end of twenty days he was taken up at Savannah, by Thomas Seaborn, a keeper of a public or boarding house at Charlestown, the deponent having been advertised by the said Captain Jones; that he was taken to the jail at Savannah, and from thence on board the Wasp again, and was there put in double irons for seventy-two days; that once during that time he asked Captain Jones why he kept him in irons so long, to which Captain Jones made no answer; that at the end of seventy-two days the deponent sailed in the Wasp from Charlestown to Washington, in the United States, and was there tried by a court-martial for desertion; that the court-martial consisted of four members, viz. a post-captain and three lieutenants; that the deponent was had before them, and the post-captain asked him, what cause he had to run away from the Wasp; the deponent answered, that he had a very good cause for it, he had not entered on board the Wasp, or in the American service, and that he was an Englishman; to which the post-captain said, "Oh, you acknowledge running away from the Wasp, and that is all we want." That the deponent was then taken to the guard-house, and was not afterwards called into court; that he does not know what his sentence was, as it was never read to him, but that five days afterwards he received, on his bare back, with a cat of, he believes, nine tails, or thereabouts, seventy-eight lashes, on board the American United States' Hulk, John Adams; that after his punishment he was desired by the said Captain Jones to go below to do duty, and he should be thought as well of as ever; that he remained on board the Hulk about ten days, when the said United States' frigate Constitution arrived at Hampton Roads, near Washington, for a draft of men; that the said Captain Hull came on board the John Adams, and desired the deponent to go with the other men he had picked out to be drafted, and he refused several times, and Captain Hull asked him what he was, and he answered he was an Englishman; and Captain Hull then said he would not have him, and went away without him; that after he was gone the said Captain Jones (the John Adams being under his command) ordered the deponent to be put in irons, which was done, and he remained in irons eight days, when Captain Hull came again on board the John Adams for a second draft of men; that Captain Hull chose some men, and on seeing the deponent, beckoned to him, and asked him what he thought of going with him then; this deponent told him, he thought the same as before, and Captain Hull then said, "I do not care a damn, let you be English or what you will, I will run the risk of taking you," and desired the Lieutenant of the John Adams to put the deponent's name down the first: and on the next morning the deponent was sent on board the Constitution, and remained in her till Tuesday the 12th instant; that the deponent did his duty as captain of the mast in the Constitution; that he sailed in her to Cherbourg, in France, and from thence to the Texel, where they landed a great quantity of money in dollars, in thirteen kegs and eleven cases, and sailed from the Texel to the Downs; that the deponent could not make his

escape then, as the ship lay too far from any other ship; that from the Downs the Constitution went again to Cherbourg, and remained there four weeks, and then came to Spithead; that on the night of the 12th instant he jumped from the starboard main chains of the Constitution into the water, and swam to His Majesty's ship Havannah, at Spithead, and was picked up by one of her boats; that he told the commanding officer of the Havannah that he was an Englishman, that he had swam from the said ship Constitution, not liking to stay on board her; that on the next morning he was sent on board His Majesty's ship Royal William, where he has been ever since; that during the time he has been on board the said United States' ships, he has not received any bounty, nor any pay, nor any clothes; that during the time he has been on board the said United States' ships he has passed by the name of Thomas Hollands, which was the name the before-mentioned Thomas Hollands said, was this deponent's name; that he told the said Captain Jones that his name was Charles Davis; that this deponent has left the whole of his clothes and things on board the Constitution; that he believes there are about sixty or seventy of His Britannic Majesty's subjects now on board the said ship Constitution; that he does not know their names, but he believes they would come forward, and own themselves as such subjects, if any officer or officers were to claim them; that they have many of them expressed to the deponent, a desire to get away from the Constitution; that a great many of the fore-castle men have told him they were Englishmen.

The mark of

×

CHARLES DAVIS.

Sworn before me, at Portsmouth, in the said county, the 15th November 1811, the above deposition having been first read over to him, which he fully understood, and affixed his mark thereto in my presence.

(Signed) *William Deacon*,
One of His Majesty's Justices of the Peace.

(Second Inclosure, referred to in No. 1.)

Captain Hall to Admiral Curtis.

SIR,

Royal William, Spithead, December 14th, 1811.

IN obedience to your direction, the two men named in the margin have been frequently questioned, as to the name and place of birth of such of the crew of the American frigate Constitution, as they could recollect to be British subjects; and as it may now be expected that George Warren will not be found, I beg to inclose the result, it being unlikely that they will remember any others, or be able to give a more particular account of these. Those marked thus † are named by both Davis and Smith.

Smith also recollects five British subjects who were serving on board the Wasp, an American sloop of war, when he belonged to her, previous to his being in the Constitution, the names of whom are likewise inclosed.

I am, &c.

(Signed)

ROBERT HALL, Captain.

Admiral Sir Roger Curtis.

Chas. Davis.
Wm. Smith.

(Paper, referred to in Second Inclosure, of No. 1.)

List of men serving on board the American frigate Constitution, as stated by Charles Davis and William Smith, who left that frigate lately at Spithead, and are now on board the Royal William.

Charles Davis, recollects,

- Thomas Rice, born at Ross, county of Wexford.
- John Burke, born at Tipperary.
- † Henry Thompson, born at Newry, or Belfast.
- Matthew Cavanaugh, an Irishman.
- Michael Irwin, Ditto.
- John Brown, North of Ireland.
- † William Gould, Captain fore-top, an Englishman.
- † Thomas Dixon, born at Southampton.
- James Brown, an Irishman.
- † George Gallon, Captain after-guard, an Englishman.

William Smith, recollects,

- Thomas White, an Englishman.
- Henry Holmes, Ditto.
- † William Gould, Captain fore-top, a Devonshire man.
- George Warren, Captain mizen-top. } Gig's crew.
- Harman Nelson, }
- James Tyler, an Irishman. }
- † Henry Thompson, Ditto.
- † Thomas Dixon, born at Southampton.
- Daniel Hogan, an Irishman.
- Augusta Barrett, 2d Captain fore-top, is not an American.
- William Kenny, Ditto, Ditto.
- Thomas Holland, fore-castle man.
- John Denny, fore-top man.
- † George Gallon, Captain after-guard, an Englishman.
- John Touchborough, fore-castle man.
- John Clark, loblolly boy.

William Smith, also recollects, on board the Wasp, American sloop of war,

- John Collins, Captain main-top. } born at London.
- Robert Field, Captain fore-top. }
- John Gibbs, Captain fore-castle.
- John Connor, Carpenter's crew.
- Thomas Collins, main-top man.

(Third Inclosure, referred to in No. 1.)

Admiral Curtis to Mr. Croker.

SIR,

Royal William, Spithead, December 20th, 1811.

I RECEIVED Mr. Barrow's letter of the 17th instant, inclosing to me a letter from the Mayor of Liverpool to Mr. Beckett, relative to a man named William Smith, who escaped from the American ship Constitution, and signifying to me the directions of the Lords Commissioners of the Admiralty to examine Smith myself, and report, whether he appears to be the John Taylor referred to in the said letter.

I beg you will be pleased to acquaint their Lordships, that having examined Smith myself, he informed me, he was born at Colnbrook, near Windsor, in the year 1789, and is John, the son of George Taylor, mentioned in the letter from the Mayor of Liverpool;—was brought up by his grandmother in Sheet-Street, Windsor, but she was called Jugs, and not Tug;—he left his grandmother, and was, by the Marine Society, sent on board the Prince of Wales—went in her to Copenhagen, from whence he came to Portsmouth in the Danish ship Waldemaar, and was drafted into the Bar fleur, and went in her to Lisbon, and deserted from her (he thinks) in July 1809. He says, he was enticed to do so by a man also belonging to the Bar fleur, named Thomas Jones, and went with him in an American ship to America, where he entered on board the American sloop of war, the Wasp, as he has already stated; and further says, that the dread of punishment for deserting prevented his before declaring the truth.

I am, &c.

(Signed)

ROGER CURTIS.

J. W. Croker, Esq.

(Fourth Inclosure, referred to in No. 1.)

Deposition of George Warren.

Borough of Portsmouth,
in the
County of Southampton. } GEORGE WARREN, now on board His Majesty's ship Royal William, at Spithead, having been impressed at Pool, by the press gang there, on his oath saith, that he was born at Wimborne, in Dorsetshire, and is now about twenty-four years of age. That he was employed by different farmers in the neighbourhood of Wimborne, until he was about ten or eleven years of age. That he was then apprenticed to a Gentleman at the Island of Jersey, as a servant, until he should attain the age of twenty-one years, but left the employ in about a year and a half after he was apprenticed, and shipped himself on board an American merchant ship, called the Mentor, commanded by Richard Partrick, then at Jersey, and sailed in her to Marblehead, in the state of Massachusetts, in North America, and on her arrival there, bound himself as an apprentice to the said Richard Partrick, for the term of five years, to serve at sea, being then about thirteen years of age. That he served out his apprenticeship in the Mentor, and made a variety of voyages to France, Spain, and the West Indies; that after his apprenticeship expired, being then about eighteen years of age, he sailed still from Marblehead, in the schooners, Mary, Friendship, and the Three Sons, in similar voyages, until the embargo in North America was laid on, and then staid on shore at Marblehead, for about fourteen months. That he married a native of Marblehead. That after the embargo was taken off, on the 16th of March, but the year he does not recollect, he sailed in the American merchant ship Eliza, from Salem to Gibraltar, and returned to Salem. That he then proceeded to New York, and shipped on board the American merchant brig Ann, and sailed in her to Greenock, in Scotland, and returned to New York; and then made a voyage in the American merchant ship Orestes, to Liverpool, and back to New York. And about the month of February 1811, he entered at the rendezvous at New York, for the American frigate Constitution, and received twenty dollars bounty, and joined her in New London, in the State of Connecticut, in North America, in the month of March last; that she sailed from thence shortly afterwards, and proceeded to Boston, and from thence to Annapolis, and left America about the 5th of August last, and arrived at Cherbourg, in France, and sailed from thence, after staying about four days, to the Downs, and from thence off the Texel and returned to Cherbourg, and after staying a week or fortnight there, came to Spithead at the port of Portsmouth. That about eight or nine weeks since, which he believes was about the 16th or 17th of

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November last, he deserted from the boat of the Constitution at Portsmouth Point, together with another seaman of the name of William Smith, who is now on board the Royal William, and is an Englishman, as he was informed by him; that he immediately went to Wimborne to his mother, and afterwards shipped at Pool, in the brig belonging to Mr. Garland, of that place, called the Hope, and was impressed from her. That he does not know that any of the crew of the Constitution were British subjects, except the said William Smith, never having heard any of them say that they were so. That he had a protection, as a citizen of the United States of North America, which he delivered to Mr. Wadsworth, the third Lieutenant of the Constitution.

The mark of
†
GEORGE WARREN.

Sworn before me at Portsmouth, the
22d January 1812, the above deposition having been first read over to him, which he fully understood, and affixed his mark to in my presence.

(Signed) *W. Deacon.*
One of His Majesty's Justices of the
Peace for the County of Hants.

(Continuation of Fourth Inclosure, referred to in No. 1.)

Deposition of Daniel Murphy.

Borough of Portsmouth,
in the
County of Southampton. } DANIEL MURPHY, now on board His Majesty's
ship Royal William, maketh oath that he was born
at Passage, near Cork, in Ireland, and is about twenty
two or twenty-three years of age. That he was apprenticed at Cork to a
Cooper of the name of John Elliott, for seven years, and served three years of
the term. That Captain Perry, who commanded the American schooner Dum-
fries, of Baltimore, being at Cork, persuaded him to go on board of her, which
he did, and sailed with him about six years ago to Philadelphia in America,
and from thence to Baltimore, where Captain Peny died. That he remained
there about two years, as a servant, with a man who kept a boarding-house.
That he then shipped in the American merchant brig Tigress, and sailed to
the West Indies and Liverpool, and back to Baltimore. That he afterwards
sailed in the American schooner Pioneer, to the Havannah, and back to Bal-
timore; and then again staid at the boarding-house at Baltimore, where he
entered for the American sloop of war Hornet, and joined her at Washington,
on the twenty-sixth day of July last, as he believes, and sailed in her to Cher-
bourg in France, and there landed a Lieutenant in the American navy, and
left him, and proceeded to Cowes in the Isle of Wight, where this deponent
deserted from her, and met with a midshipman belonging to the rendezvous
there, and entered for the British service on the 13th January instant. That
a person on board the said sloop of war Hornet, who passed by the name of
William Elby, and was a seaman on board, often told this deponent that he
was a native of Portsmouth, and had worked in the dock-yard when a boy,
as a carpenter, that he was married to the daughter of Mr. Harris, a publican,
who lived on the London road near Portsmouth, that he sent to his wife, and
she came on board the Hornet at Cowes, and asked for William Bowman,
when Elby came forward and answered to the name of Bowman, and she re-
mained on board three days with him, that she left the ship intending to re-
turn with her child; but he, this deponent, never saw her afterwards. That
Bowman belonged to the Hornet before this deponent, and he does not know

where he entered. That a brother of Bowman came alongside the *Hornet* to see him, but Lieutenant Ballard, the first lieutenant, would not permit him to see him, nor to come on board, as Bowman informed this deponent, who also said that he would be very glad to leave the ship if he could get rid of her, and that Lieutenant Ballard had said to him, he would give him a good hiding when he got him to sea for writing to his parents. That he believes Bowman's father is a carpenter, but he is not certain of it. That William Sinclair, a native of Youghall, in Ireland, James Bunting, a boy, a native of Scotland, and Joseph Williams, also a boy, and a native of England, (of Liverpool, he believes), all were desirous of quitting the *Hornet* at Cowes, but had no opportunity, and were afraid to mention their wish on board, lest they should get punished.

The mark of

†
DANIEL MURPHY.

Sworn before me at Portsmouth, the 22d of January, 1812. The above deposition having been first read over to him, which he fully understood and affixed his mark thereto in my presence.

(Signed) *Wm. Deacon,*

One of His Majesty's Justices of Peace
for the County of Hants.

For the Affidavit of Elizabeth Bowman, see Inclosure in No. 35—Class A.

(Fifth Inclosure, referred to in No. 1.)

Deposition of John Taylor.

County of } JOHN TAYLOR, now on board His Majesty's ship *Royal Southampton*. } William, bearing the flag of Admiral Sir Roger Curtis, Bart. Commander-in-Chief at Portsmouth, maketh oath, that he was born at Colebroke, near Winchester, in the County of Southampton, and is now about twenty-two years of age, that when he was about fourteen years of age, he was sent from the Marine Society in London, on board His Majesty's ship *Prince of Wales*, then under the command of Captain Giffard, afterwards of Captain Cummins, and bearing the flag of Admiral Sir Robert Calder, Bart. That he was afterwards drafted into His Majesty's ship *Barfleur*, commanded by Captain M'Cloud, that being on shore at Lisbon, on liberty with Thomas Jones the gunner's mate, they both deserted, about two years and a half ago, and this deponent shipped himself on board an American brig called the *William of Boston*, John Goodwin master, by the name of William Smith, and sailed in her to Boston, in North America. That he there left her, and entered on board an American coasting schooner, called the *Sally*, and remained in her about three months. That he then voluntarily entered on board the American sloop of war *Wasp*, and remained in her about eighteen months, and then went to Washington to be hove down. That he was then drafted, with about fifty men, to the American frigate *Constitution*, commanded by Captain Hull. That she sailed from Annapolis about three or four months ago to Cherbourg, and there landed an American Minister who was going to Paris. That she then sailed to the Texel, in Holland, and landed eight or nine kegs of money. That she returned to Cherbourg, and procured provisions and refitted, and after remaining about a month, she came to Spithead, bringing a gentleman from Cherbourg, who was landed at Portsmouth. That about a week after she arrived, he, this deponent, belonging to a boat, deserted from her at Portsmouth Point, and went to Wimborne, with George Warren, another seaman, who left her at the same time, and stopped

there about five days, and then went down to Pool, in Dorsetshire, and there entered for His Majesty's service at the rendezvous, and was sent on board His Majesty's ship Royal William. That the following persons were on board the said frigate Constitution, and the sloop Wasp, who are subjects of Great Britain, as appears against their respective names, as he was informed by them: viz.

Constitution.

Thomas White, fore-top man, an Englishman.
 Henry Holmes, main-top man, Ditto.
 William Gould, captain of the fore-top, Ditto, of Devonshire.
 George Warren, captain of the mizen-top, Ditto, Wimborne.
 Harman Nelson, after-guard, an Englishman.
 James Tyler, fore-top man, an Irishman.
 Henry Thompson, Ditto Ditto.
 Thomas Dixon, Ditto, an Englishman, of Southampton.
 Daniel Hogan, Ditto, an Irishman.
 Augustus Barrett, 2d captain ditto, an Englishman.
 William Kenny, Ditto Ditto, an Irishman.
 Thomas Holland, fore-castle man, Ditto.
 John Denny, mizen-top man, Ditto.
 George Gallon, captain of the after-guard, an Englishman.
 John Touchborough, fore-castle man, an Irishman.
 John Clark, loblollyboy, an Englishman, of Plymouth.
 Thomas Rice, fore-castle man, an Englishman.
 Peter Adams, boatswain, was in the Prince of Wales last war, as Thomas Rice told John Davies; does not know his country.

Wasp.

John Collins, captain main-top, London.
 Robert Field, Ditto, an Englishman, Shields, as he believes.
 John Gibbs, captain of the fore-castle, an Englishman.
 John Connor, carpenter's crew, an Irishman.
 Thomas Collins, main-top man, Ditto.

That he has heard Thomas Rice say he wished to quit the American service, but having entered for twenty-four months, he could not obtain his discharge. That he deserted from the Wasp, in East River, New York, and being again apprehended, was tried by a Court Martial, and was punished with one hundred lashes.

The mark of
 †
 JOHN TAYLOR.

Sworn at Portsmouth aforesaid, the 27th day of January 1812, the same having been first read over to him, and he well understanding the same, and having affixed his mark thereto, before me.

(Signed) *E. H. Maud.*
 One of His Majesty's Justices of the Peace for the County of Southampton.

(For Sixth Inclosure, referred to in No. 1.)

See Nos. 35 and 36. Class A.

No. 2.

Viscount Castlereagh to Mr. Foster.

SIR,

Foreign Office, March 19th, 1812.

It is desirable, that you should take an early opportunity of laying before the American Government, the substance of the information contained in the inclosed communication from the Admiralty, respecting the treatment experienced at sea by the American brig, John, bound from Boston to Tonnin-gen, from two French frigates, and a brig; in order that the Government of the United States may set on foot such inquiries as they may judge expedient, to enable them to appreciate the regard shewn by French officers to the flag and property of individuals of the United States.

I am, &c.

(Signed)

CASTLEREAGH.

A. J. Foster, Esq.

(Inclosure, referred to in No. 2.)

ARRIVED this morning the brig John, of and from Boston, bound to Tonnin-gen: the master reports, that on the 19th instant, in latitude 43, north longitude 23 north, he fell in with two French frigates, and a brig of war, that he was boarded by them, and taken on board the French Commodore, where he was detained nearly two hours; that whilst there, the Frenchmen cut his decks, took out patent lights, and other damage; also stole sundry small stores, and broke bulk, by taking several serons of Indigo in their boats, which at his remonstrance were returned; that a consultation was held about destroying the John, and it was resolved not to do it, (they gave up the hopes of getting her into France) as the number of persons would be so much increased. The officers stated, this squadron had come from *Ostend, north about*, he heard their names, but forgets them. The Commodore's ship appeared in clean and excellent order. He also learned that a large Baltimore brig had been taken and burnt, that her crew, (fifteen in number) were on board, but he was not allowed to communicate with any, or either of them.

(Signed)

R. CALDER.

No. 3.

Viscount Castlereagh to Mr. Foster.

SIR,

Foreign Office, April 10, 1812.

I INCLOSE to you the Moniteur of the 16th ultimo, containing a report made to the Ruler of France, and communicated to the Conservative Senate, on the 10th ultimo, by the French Minister for Foreign Affairs, which confirms, if any thing were wanting to confirm, the repeated assertions of Great Britain, that the Berlin and Milan Decrees have never been revoked, however some partial and insidious relaxations of them may have been made, in a few instances, as an encouragement to America to adopt a system beneficial to France and injurious to Great Britain; and which being accompanied by conditions directly hostile to British rights, gave to that relaxation the character of being founded in an expectation that America would submit to those obnoxious terms.

I need not bring to your recollection the various attempts which have been
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unsuccessfully made, not only to induce the American Government to produce any formal instrument by which the Decrees of Buonaparte were repealed, but to make an explicit avowal, that America did not adopt the conditions upon which this repeal was offered. The first she was unable to do; the latter she has studiously avoided.

We have, therefore, a distinct right to complain of America, that she should demand of us to admit that an *absolute* repeal of the French Decrees had taken place, when she could only produce a conditional offer of repeal on the part of France; which, if accepted in its extent by America, would only form fresh matter of complaint, and a new ground for declining her demands. America must feel, that it is impossible for Great Britain to rescind her Orders in Council, whilst the French Decrees are officially declared to remain in force against all nations, not subscribing to the new maritime code promulgated in those Decrees; and also whilst America maintains so suspicious a reserve, with regard to the conditions annexed by France to the alledged repeal of those Decrees. For, after what has passed, unless a full and satisfactory explanation be made on both these points, Great Britain cannot relinquish her retaliatory system against France, without implying her consent to the admissibility of the conditions in question.

I trust, however, when you have delivered in the inclosed paper to the American Government, that a new disposition will begin to manifest itself, which may render it unnecessary to return to the late causes of our just complaints.

It will be at once acknowledged, that this paper is a republication of the Berlin and Milan Decrees, if possible, in a more aggravated form, accompanied as it is with an extension of all the obnoxious doctrines which attended those Decrees; inflamed by a declaration, that Buonaparte has annexed to France every independent state in his power, which had eluded them; and that he was proceeding against all other maritime parts of Europe, on the pretence that his system could not be permanent and complete, so long as they retained their liberty with regard to it. The outrageous principle here avowed connects itself obviously with the proposition too much countenanced by America, that the continental system of Buonaparte, as far as it operates to the confiscation of neutral property on shore, on the ground of such property being British produce or manufacture, is a mere municipal regulation, which neutral or belligerent nations have no right to resent, because it does not violate any principle of the Law of Nations. It is unnecessary to recur to the various arguments by which it has been shewn that this system does not partake of the character of municipal regulation, but that it is a mere war measure, directed with the most hostile spirit against this country. You will dwell as forcibly as possible upon this circumstance, that in order to extend this system on the principle of municipal regulation, all the rights of independent neutral nations are to be violated, their territories are to be seized, without any other cause of war whatever, but that they may be incorporated with the French nation, and thence becoming subject to her rights of dominion, receive the continental system as a municipal regulation of France;—and thus the mere possibility of non-compliance with the whole of this system is made the ground for the occupation or invasion, the incorporation or extinction, of every state on the Continent of Europe. Great Britain cannot believe that America will not feel a just indignation at the full developement of such a system; a system which indeed Buonaparte has partially opened before, and has, in the instances of the Hanseatic Towns, of Portugal, and other countries, carried into complete execution; but which he has never completely unfolded, in all its extent, till the present moment; and in what an insulting and preposterous shape does he now attempt to bring forward and promulgate this code, which he is to force upon all nations! He assumes the Treaty of Utrecht to be in force, and to be a law binding upon all states; because it suits his convenience at this moment, when the navy of France is driven from the ocean, to revive the doctrine of “free ships making free goods;” he has recourse to a treaty, no longer in

force, in which such a stipulation existed,—a treaty, which, by his own express refusal at Amiens to renew any of the ancient treaties, was not then revived, even as binding on Great Britain and France, between whom alone, as parties to it, and only while they were at peace with each other, could it ever have had any legal effect; yet even this treaty is too narrow a basis for his present pretensions, since he cannot find in it his rule for limiting maritime blockades to fortresses actually invested, besieged, and likely to be taken,—no provision of any description having been made in that treaty either for defining or regulating blockades.

Surely at such an instant America will not urge Great Britain to abandon or to soften any precautionary, any retaliatory rights against such a power: The British Government not only feels itself imperiously bound to defend them, as they respect Great Britain, with all vigour, but to call upon every nation to resist such exorbitant pretensions.

If at such a moment Great Britain were to relax her Orders in Council against France, unless America should give an explicit proof of her determination to join the common cause of all civilized nations, would not those nations have reason to complain that the common cause was abandoned?

America must feel that Buonaparte is not acting, as indeed he has never acted, with any view of establishing principles of real freedom with respect to navigation, but is merely endeavouring to cloak his determination, if possible, to ruin Great Britain, by novel demands and rejected theories of maritime law. America must see, that Buonaparte's object is to exclude British Commerce from every coast and port of the Continent; and that, in pursuit of this object, trampling on the rights of independent states, he insultingly proclaims his determination to effect it by direct invasion of those states, which invasion he as insultingly terms a guarantee; thus making the most solemn and sacred term in the Law of Nations synonymous with usurpation of territory, and extinction of independence. America must see, that, as all the states hitherto within his power have been seized on to *guarantee* his system, he is now proceeding to destroy whatever remains of independence in other neutral states, to make that *guarantee* complete. From his want of power to pass the Atlantic with his armies, (a want of power for which the United States are indebted to the naval superiority of Great Britain,) his system of a *guaranteeing* force may fail as to America; but as he cannot hope to shut the American ports against Great Britain, by occupancy and invasion, he hopes to effect his purpose by management and fraud, and to accomplish that by insidious relaxation, which he cannot accomplish by power.

Great Britain he feels is only to be ruined by excluding her from every port in the world;—he hopes, therefore, to shut every port in Europe by force, and every port in America by management. He pretends to conciliate America by applause of her conduct, and a relaxation of his system in her favour. He accompanies that relaxation by conditions, which he trusts America will not disavow, if she does not actually accept, and which he knows Great Britain must reject; knowing, at the same time, that the relaxation of his Decrees will be of little use to America, without a corresponding relaxation by Great Britain: he throws every obstacle against concession to America by Great Britain, by making her perseverance in her retaliatory system more than ever essential to her honour and existence; and surely it will not escape the notice, or fail to excite the indignation of the American Government, that the Ruler of France, by taking this new ground, has retracted the concession, which America supposed him to have made; he has inconsistently and contemptuously withdrawn from her the ground, upon which she has taken a hostile attitude against Great Britain, since the repeal of our Orders in Council, and even the renunciation of our rights of blockade, would no longer suffice to obtain a repeal of his Berlin and Milan Decrees.

It is to be hoped, that America, considering all the extravagant pretensions, all the monstrous doctrines set forth by the Ruler of France, in the French Minister's report, and at the same time the resolution to march his armies into all states into the ports of which the English flag is admitted,

will acknowledge that this doctrine and resolution constitute a complete annihilation of neutrality; and that she is bound, as a neutral power, to disavow and resist such principles. Every state, that acquiesces in this report, must act upon the principle, that neutral and enemy are to be considered, henceforward, as the same, in the language of the French Law of Nations; and Great Britain has a right to consider, that every nation, who refuses to admit her flag, upon the principle assumed, admits and recognizes the doctrine of this report.

With respect to the blockade of May 1806, which Buonaparte brings forward so prominently as the foundation and justification of all his violent measures, I do not think it probable that, in the present state of the discussion, America is likely to rest much upon that point. The recent communications which have taken place between the two Governments, have, I trust, satisfactorily shewn to America, that that blockade was not at the first enforced, nor has it at any time been maintained, or defended, by us, upon any new principles. It rested for its efficacy, as well as its legality, upon the naval force assigned to enforce it: but if it should be impeached by America, you will continue to maintain its justice, as well as the necessity for imposing it at the moment, (menaced as the country then was with an invasion), and that it was a blockade which gave great latitude to the rights of neutrals. You will continue, if necessary, to remark, that the execution of this blockade was previously provided for, and subsequently maintained, by a competent force. You will further observe, that it was a measure which was not complained of at the time, and under which the most friendly negotiations went forward for settling a commercial treaty, which was then actually concluded in England with America; indeed the legality of that blockade, assuming the blockading force to have been sufficient to enforce it, Mr. Monroe has latterly not questioned.

You will observe, that it was impossible Great Britain should not receive, otherwise than with the utmost jealousy, the unexpected demand made by America for the repeal of this blockade, as well as of the Orders in Council, when it appeared to be made subsequent to, if not in consequence of, one of the conditions in the pretended repeal of the French Decrees, which condition was, our renouncing what he calls "our new principles of blockade." That the demand on the part of America was additional and new, is sufficiently proved by reference to the overture of Mr. Pinkney, as well as from the terms on which Mr. Erskine had arranged the dispute with America relative to the Orders in Council. In that arrangement nothing was brought forward with regard to this blockade. America would have been contented at that time, without any reference to it. It certainly is not more a grievance or an injustice now than it was then. Why is the renunciation of that blockade insisted upon now, if it was not necessary to insist upon it then? It is difficult to find any answer, but by reference to subsequent communications between France and America, and a disposition in America to countenance France in requiring the disavowal of this blockade, and the principles upon which it rested, as the condition *sine quâ non* of the repeal of the Berlin and Milan Decrees.

It seems to have become an object with America, only because it was prescribed as a condition by France.

On this blockade, and the principles and rights upon which it was founded, France appears to rest the justification of all her measures for abolishing neutrality, and for the invasion of every state which is not ready with her to wage a war of extermination against the commerce of Great Britain. America, therefore, no doubt, saw the necessity of demanding its renunciation, but she will now see that it is in reality vain either for America or for Great Britain, to expect an actual repeal of the French Decrees, until Great Britain renounces, first, the basis, viz. the blockade of 1806, on which Buonaparte has been pleased to found them; next, her right of retaliation, as subsequently acted upon in the Orders in Council; further, till she is ready to receive the Treaty of Utrecht, interpreted and applied by the Duke of Bassano's

report as the universal law of nations : and finally till she abjures all the principles of maritime law, which support her established rights, now, more than ever, essential to her existence as a nation.

Great Britain feels confident, that America never can maintain or ultimately sanction such pretensions ; and His Royal Highness entertains the strongest hope that this last proceeding of France will strip her measures of every remnant of disguise, and that America in justice to what she owes to the law of nations, and to her own honour and independence as a neutral state, will instantly withdraw her countenance from the outrageous system of the French Government ; and cease to support, by hostile measures, against British commerce, the enormous fabric of usurpation and tyranny, which France has endeavoured to exhibit to the world, as the law of nations.

America cannot now contend that the Orders in Council exceed in spirit of retaliation, what is demanded by the Decrees, the principles, or the usurpations of France : America must at last be convinced that the partial relaxation of those Decrees in her favour, has been insidiously adopted by France, for the mere purpose of inducing her to close her ports against Great Britain, which France cannot herself effect by force ; and she must admit, if Great Britain were now to repeal her Orders in Council against France, it would be gratuitously giving to France the commerce of America, and all the benefits derivable from her flag, as an additional instrument for the annoyance of Great Britain ; and that, at the moment when America not only omits to assert her own rights against France, but at the very time when all other States are either threatened with destruction, or really destroyed, for merely supporting their own rights, and, as incident to those rights, the commerce of Great Britain.

Upon the whole of this important subject, it is the Prince Regent's pleasure, that you do declare to the American Government, in a tone of equal firmness and conciliation, that Great Britain can never concede, that the blockade of May 1806, can justly be made the foundation, as it avowedly has been, for the Decrees of France : and further, that the British Government must ever consider the principles on which that blockade rested, (accompanied as it was by an adequate blockading force) to have been strictly consonant to the established law of nations, and a legitimate instance of the practice which it recognizes.

2dly. That Great Britain must continue to reject the other spurious doctrines promulgated by France in the French Minister's report, as binding upon all nations : she cannot admit, as a true declaration of public law, that free ships make free goods, nor the converse of that proposition, that enemy's ships destroy the character of neutral property in the cargo. She cannot consent, by the adoption of such a principle, to deliver absolutely the commerce of France from the pressure of the naval power of Great Britain ; and by the abuse of the neutral flag, to allow her enemy to obtain, without the expense of sustaining a navy, for the trade and property of French subjects, a degree of freedom and security, which even the commerce of her own subjects cannot find under the protection of the British navy :

She cannot admit, as a principle of public law, that maritime blockades can alone be legally applied to fortresses, actually invested by land, as well as by sea ; which, is the plain meaning or consequence of the French Minister's definition.

She cannot admit, as a principle of public law, that arms and military stores are alone contraband of war, and that ship-timber and naval stores are excluded from that description : Neither can she submit, without retaliation, that the mere fact of commercial intercourse with British ports and subjects, should be made a crime in all nations, and that the armies and Decrees of France should be directed to enforce a principle so new, and unheard of in War. Great Britain feels, that to relinquish her just measures of self-defence and retaliation, would be to surrender the best means of her own preservation and rights, and with them the rights of other nations, so long as France maintains, and acts upon such principles. You will represent to the Government of America, that Great Britain feels itself entitled to expect

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from them, an unreserved and candid disclaimer of the right of France to impose on her, and on the world, the maritime code which has been thus promulgated; and to the penalties of which America is herself declared to be liable, if she fails to submit herself to its enactments. America cannot, for her own character, any longer temporize on this subject, or delay coming to a distinct explanation with France, as well as with Great Britain, if she wishes to clear herself from the imputation of being an abettor of such injustice.

America, as the case now stands, has not a pretence for claiming from Great Britain a repeal of her Orders in Council. She must recollect, that the British Government never for a moment countenanced the idea, that the repeal of those Orders could depend upon any partial or conditional repeal of the Decrees of France. What Great Britain always avowed, was, her readiness to rescind her Orders, so soon as France rescinded, absolutely and unconditionally, her Decrees. She never engaged to repeal those Orders, as affecting America alone, leaving them in force against other states, upon condition that France would except, singly, and specially, America, from the operation of her Decrees: She could not do so, without the grossest injustice to her allies, as well as all other neutral nations: much less could she do so upon the supposition, that the special exception in favour of America, was to be expressly granted by France, as it has been hitherto tacitly accepted by America, upon conditions utterly subversive of the most important and indisputable maritime rights of the British empire.

America has now a proceeding forced upon her notice, on which, without surrendering any of those principles which she may deem it necessary for her own honour and security to maintain, she may separate herself from the violence, and injustice of the enemy: She owes it not only to herself to do so, but she is entitled to resent that course of conduct on the part of France, which is the only impediment to her obtaining, what she desires at the hands of Great Britain; namely, the repeal of the Orders in Council.

You may renew to the American Government, the assurance of His Royal Highness's anxious desire to meet the wishes of America upon this point, whenever the conduct of the enemy will justify Him in doing so.

Whilst America could persuade herself, however erroneously, that the Berlin and Milan Decrees had been actually and totally repealed; and that the execution of the engagement, made on that condition by the British Government, had been declined; she might deem it justifiable, as a consequence of such a persuasion, to treat the interest and commerce of France with preference and friendship, and those of Great Britain with hostility; but this delusion is at an end: America now finds the French Decrees, not only in full force, but pointed with augmented hostility against Great Britain. Will the American Government declare, that the measure now taken by France, is that repeal of the obnoxious Decrees, which America expected would lead to the repeal of the British Orders in Council? Will the American Government, unless upon the principle of denying our retaliatory right of blockade under any imaginable circumstances, declare, that there is at this moment a ground, upon which the repeal of our Orders in Council can be pressed upon us; or that the repeal could now be warranted, upon any other ground than an express abdication of the right itself, which America well knows, whatever may be our desire to conciliate, is a concession which the British Government cannot, and will not, make? If this be true, for what purpose can she persevere in her hostile attitude towards Great Britain, and her friendly one towards France? Does America really wish to aid France in her attempts to subjugate Great Britain? Does America expect that Great Britain, contending against France, will, at the instance of America, disarm herself, and submit to the mercy of her opponent? If both these questions are answered in the negative, upon what ground can she for a moment longer continue her hostile measures against us? The American Non-Intercourse Act was framed, upon the express principle of continuing in force against the power, whether France or Great Bri-

tain, that should refuse to repeal its respective laws, of which America thought herself entitled to complain. But the repeal contemplated by that act was a *bonâ fide* repeal, and not a repeal upon an inadmissible condition.

The French Government came forward with an insidious offer of repealing her Decrees; Great Britain professed her readiness to adopt a corresponding measure, so soon as the offer of France should be notified in a regular form, unaccompanied by inadmissible conditions. It now appears, that America was too credulous, and that Great Britain was justified in the suspicion she entertained of the enemy's bad faith. It is impossible America should not feel, under these circumstances, that she has not only an act of justice to perform by Great Britain; but perceive, that France has deliberately attached conditions to the repeal of her Decrees, which she knew Great Britain never could accept; hoping thereby to foment disunion between Great Britain and America. America can never be justified, in continuing to resent against us that failure of relief, which is alone attributable to the insidious policy of the enemy. It is not for the British Government to dictate to that of America, what ought to be the measure of its just indignation against the Ruler of France, for having originated and persevered in a system of lawless violence, to the subversion of neutral rights; which, being necessarily retaliated by Great Britain, has exposed America, with other neutral states, to losses which the British Government has never ceased most sincerely to deplore. America must judge for herself, how much the original injustice of France towards her has been aggravated by the fraudulent professions of relinquishing her Decrees; by the steps adopted to mislead America, in order to embark her in measures, which, we trust, she never would have taken, if she could have foreseen what has now happened; and ultimately, by threatening America with her vengeance, as a denationalized state, if she does not submit to be the instrument of her designs against Great Britain.

These are considerations for America to weigh; but what we are entitled to claim at her hands, as an act not less of policy than of justice, is, that she should cease to treat Great Britain as an enemy. The Prince Regent does not desire retrospect, where the interests of two countries, so naturally connected by innumerable ties, are concerned. It is more consonant to His Royal Highness's sentiments, to contribute to the restoration of harmony and friendly intercourse, than to inquire why it has been interrupted. Feeling that nothing has been omitted on His part to relieve America from the inconveniences to which a novel system of warfare on the part of France, unfortunately continues to expose her; and that the present unfriendly relations, which, to their mutual prejudice, subsist between the two countries, have grown out of a misconception on the part of America, both of the conduct and purpose of France: His Royal Highness considers Himself entitled to call upon America to resume her relations of amity with this country: In doing so, she will best provide for the interests of her own people; and, you are authorised to assure the American Government, that, although His Royal Highness, acting in the name and on behalf of His Majesty, can never suffer the fundamental maxims of the British Monarchy, in matters of maritime right, as consonant to the recognized law of nations, to be prejudiced in His hands, His Royal Highness will be ready, at all times, to concert with America as to their exercise; and so to regulate their application, as to combine, as far as may be, the interests of America, with the object of effectually retaliating upon France the measure of her own injustice.

You are at liberty to communicate the whole, or any part, of this dispatch to the American Government; trusting, they will trace in it, the sincere desire which animates the Councils of Great Britain, to conciliate America, as far as may be consistent with the principles upon which the preservation of the power and independence of the British Empire is held essentially to depend.

I am, &c.

(Signed)

CASTLEREACH.

A. J. Foster, Esq:

(Extract from the Inclosure, referred to in No. 3.)

Rapport du Ministre des Relations Extérieures.

SIRE,

Paris, 10 de Mars, 1812.

LES droits maritimes des neutres ont été réglés solennellement par le traité d'Utrecht, devenu la loi commune des nations.

Cette loi, textuellement renouvelée dans tous les traités subséquents, a consacré les principes que je vais exposer.

Le pavillon couvre la marchandise. La marchandise ennemie sous pavillon neutre est neutre, comme la marchandise neutre sous pavillon ennemi est ennemie.

Les seules marchandises que ne couvre pas le pavillon, sont les marchandises de contrebande, et les seules marchandises de contrebande sont les armes et les munitions de guerre.

Toute visite d'un bâtiment neutre par un bâtiment armé, ne peut être faite que par un petit nombre d'hommes, le bâtiment armé se tenant hors de la portée du canon.

Tout bâtiment neutre peut commercer d'un port ennemi à un port ennemi, et d'un port ennemi à un port neutre.

Les seuls ports exceptés sont les ports réellement bloqués, et les ports réellement bloqués sont ceux qui sont investis, assiégés, en prévention d'être pris, et dans lesquels un bâtiment de commerce ne pourrait entrer sans danger.

Telles sont les obligations des puissances belligérantes envers les puissances neutres ; tels sont les droits réciproques des unes et des autres ; telles sont les maximes consacrées par les traités qui forment le droit public des nations. Souvent l'Angleterre osa tenter d'y substituer des règles arbitraires et tyranniques. Ses injustes prétentions furent repoussées par tous les Gouvernemens sensibles à la voix de l'honneur et à l'intérêt de leurs peuples. Elle se vit constamment forcée de reconnaître dans ses traités les principes qu'elle voulait détruire, et quand la paix d'Amiens fut violée, la législation maritime reposait encore sur ses anciennes bases.

Par la suite des événemens, la marine anglaise se trouva plus nombreuse que toutes les forces des autres puissances maritimes. L'Angleterre jugea alors que le moment était arrivé, où, n'ayant rien à craindre, elle pouvait tout oser ; elle résolut aussitôt de soumettre la navigation de toutes les mers aux mêmes lois que celle de la Tamise.

Ce fut en 1806, que commença l'exécution de ce système, qui tendait à faire fléchir la loi commune des nations devant les Ordres du Conseil et les réglemens de l'amirauté de Londres.

La déclaration du 16 Mai anéantit d'un seul mot les droits de tous les états maritimes, mit en interdit de vastes côtes et des empires entiers. Dès ce moment l'Angleterre ne reconnaît plus de neutre sur la mer.

Les arrêts de 1807 imposèrent à tout navire l'obligation de relâcher dans un port anglais, quelle que fût sa destination, de payer un tribut à l'Angleterre, et de soumettre sa cargaison aux tarifs de ses douânes.

Par la déclaration de 1806, toute navigation avait été interdite aux neutres ; par les arrêts de 1807, la faculté de naviguer leur fut rendue, mais ils ne durent en faire usage que pour le service du commerce anglais dans les combinaisons de son intérêt, et à son profit.

Le Gouvernement anglais arrachait ainsi le masque dont il avait couvert ses projets, proclamait la domination universelle des mers, regardait tous les peuples comme ses tributaires, et imposait au Continent les frais de la guerre qu'il entretenait contre lui.

Ces mesures inouïes excitèrent une indignation générale parmi les puissances qui avaient conservé le sentiment de leur indépendance et de leurs droits ; mais à Londres elles portèrent au plus haut degré d'exaltation l'orgueil national ; elles montrèrent au peuple anglais un avenir riche des plus bril-

lantes espérances ; son commerce, son industrie devaient être désormais sans concurrence ; les produits des deux mondes devaient affluer dans ses ports, faire hommage à la souveraineté maritime et commerciale de l'Angleterre, en lui payant un droit d'octroi, et parvenir ensuite aux autres nations chargés des frais énormes dont les seules marchandises Anglaises auraient été affranchies.

V. M. aperçut d'un coup-d'œil les maux dont le continent était menacé : elle en saisit aussitôt le remède ; anéantit par ses décrets cette entreprise fastueuse, injuste, attentatoire à l'indépendance de tous les états, et aux droits de tous les peuples.

Le Décret de Berlin répondit à la déclaration de 1806. Le blocus des Isles Britanniques fut opposé au blocus imaginaire établi par l'Angleterre.

Le Décret de Milan répondit aux arrêts de 1807 ; il déclara dénationalisé tout bâtiment neutre qui se soumettrait à la législation Anglaise, soit en touchant dans un port Anglais, soit en payant tribut à l'Angleterre, et qui renoncerait ainsi à l'indépendance et aux droits de son pavillon : toutes les marchandises du commerce et de l'industrie de l'Angleterre furent bloquées dans les Isles Britanniques ; le système continental les exila du continent.

Jamais acte de représailles n'atteignit son objet d'une manière plus prompte, plus sûre, plus victorieuse. Les Décrets de Berlin et de Milan tournerent contre l'Angleterre les armes qu'elle dirigeait contre le commerce universel. Cette source de prospérité commerciale qu'elle croyait si abondante, devint une source de calamité pour le commerce anglais ; au lieu de ces tributs qui devaient enrichir le trésor, le discrédit, toujours croissant, frappa la fortune de l'Etat et celle des particuliers.

Dès que les Décrets de V. M. parurent, tout le continent prévint que tels en seraient les résultats s'ils recevaient leur entière exécution ; mais, quelque accoutumée que fût l'Europe à voir le succès couronner vos entreprises, elle avait peine à concevoir par quels nouveaux prodiges Votre Majesté réaliserait les grands desseins qui ont été si rapidement accomplis. Votre Majesté s'arma de toute sa puissance ; rien ne la détourna de son but. La Hollande, les Villes Anseatiques, les côtes qui unissent le Zuyderzée à la mer Baltique, durent être réunies à la France et soumises à la même administration et aux mêmes réglemens : conséquence immédiate, inévitable de la législation du Gouvernement Anglais. Des considérations d'aucun genre ne pouvaient balancer dans l'esprit de V. M. le premier intérêt de son empire.

Elle ne tarda pas à recueillir les avantages de cette importante résolution. Depuis quinze mois, c'est-à-dire depuis le Sénatus-Consulte de ré-union, les Décrets de Votre Majesté ont pesé de tout leur poids sur l'Angleterre. Elle se flattait d'envahir le commerce du monde, et son commerce devenu un agiotage, ne se fait qu'au moyen de 20,000 licences délivrées chaque année : forcée d'obéir à la loi de la nécessité, elle renonce ainsi à son acte de navigation, premier fondement de sa puissance. Elle prétendait à la domination universelle des mers, et la navigation est interdite à des vaisseaux repoussés de tous les ports du continent ; elle voulait enrichir son trésor des tributs que lui payerait l'Europe, et l'Europe s'est soustraite non-seulement à ses prétentions injurieuses, mais encore aux tributs qu'elle payait à son industrie ; les villes de fabriques sont devenues désertes ; la détresse a succédé à une prospérité jusqu'alors toujours croissante ; la disparition alarmante du numéraire et la privation absolue du travail, altèrent journellement la tranquillité publique. Tels sont pour l'Angleterre les résultats de ses tentatives imprudentes. Elle reconnaît déjà, et elle reconnaîtra tous les jours davantage qu'il n'y a de salut pour elle que dans le retour à la justice et aux principes du droit des gens, et qu'elle ne peut participer aux bienfaits de leur pavillon. Mais jusqu'alors, et tant que les arrêts du Conseil Britannique ne seront pas rapportés, et les principes du traité d'Utrecht envers les neutres remis en vigueur, les Décrets de Berlin et de Milan doivent subsister pour les puissances qui laisseront dénationaliser leur pavillon. Les ports du continent ne doivent s'ouvrir ni aux pavillons dénationalisés, ni aux marchandises anglaises.

Il ne faut pas le dissimuler ; pour maintenir sans atteinte ce grand système, il est nécessaire que V. M. emploie les moyens puissants qui appartiennent à

son empire, et trouve dans ses sujets cette assistance qu'elle ne leur demande jamais en vain. Il faut que toutes les forces disponibles de la France puissent se porter partout où le pavillon anglais et les pavillons dénationalisés ou convoqués par les bâtiments de guerre de l'Angleterre voudraient aborder. Une armée spéciale, exclusivement chargée de la garde de nos vastes côtes, de nos arsenaux maritimes et du triple rang de forteresses, qui couvre nos frontières, doit répondre à Votre Majesté de la sûreté de territoire confié à sa valeur et à sa fidélité; elle rendra à leur belle destinée ces braves accoutumés à combattre et à vaincre sous les yeux de Votre Majesté pour la défense des droits politiques et de la sûreté extérieure de l'Empire. Les dépôts mêmes des corps ne seront plus détournés de l'utile destination d'entretenir le personnel et le matériel de vos armées actives. Les forces de Votre Majesté seront ainsi constamment maintenues sur le pied le plus formidable, et le territoire français, protégé par un établissement permanent que conseillent l'intérêt, la politique et la dignité de l'empire, se trouvera dans une situation telle qu'il méritera plus que jamais le titre d'inviolable et de sacré.

Dès long-temps le Gouvernement actuel de l'Angleterre a proclamé la guerre perpétuelle, projet affreux dont l'ambition même la plus effrénée n'aurait pas osé convenir, et dont une jactance présomptueuse pouvait seule laisser échapper l'aveu, projet affreux qui se réaliserait cependant, si la France ne devait espérer que des engagements sans garantie, d'une durée incertaine, et plus désastreux que la guerre même.

La paix, Sire, que Votre Majesté, au milieu de sa toute-puissance, a si souvent offerte à ses ennemis, couronnera vos glorieux travaux, si l'Angleterre exilée du continent avec persévérance, et séparée de tous les états dont elle a violé l'indépendance, consent à rentrer enfin dans les principes qui fondent la Société Européenne, à reconnaître la loi des nations, à respecter les droits consacrés par le traité d'Utrecht.

En attendant, le peuple français doit rester armé: l'honneur le commande, l'intérêt, les droits, l'indépendance des peuples engagés dans la même cause, et un oracle plus sûr encore, souvent émané de la bouche même de V. M. en font une loi impérieuse et sacrée.

Translation.

Report of the Minister for Foreign Affairs.

SIRE,

Paris, March 10, 1812.

THE maritime rights of neutrals were solemnly determined by the treaty of Utrecht, which became the common law of nations.

This law, renewed word for word, in every subsequent treaty, has consecrated the principles which I am about to state.

The flag covers the merchandize;—the goods of an enemy under a neutral flag, are neutral, and the goods of a neutral under an enemy's flag, are enemy's goods.

The only goods, not covered by the flag, are contraband, and the only contraband goods are arms and warlike stores.

No visit of a neutral vessel, by an armed ship, can be made, but by a small number of men; the armed ship keeping out of cannon shot.

Every neutral vessel may trade from an enemy's port, to an enemy's port, and from an enemy's port to a neutral port.

The only ports excepted are those really blockaded: and ports really blockaded are those which are invested, besieged, in the presumption of their being taken, and into which a merchant ship should not enter without danger. Such are the duties of belligerent powers towards neutral powers. Such are the reciprocal rights of the one and the other;—such are the maxims consecrated by the treaties which constitute the public law of nations.

England has often attempted to substitute, in their place, arbitrary and tyrannical laws. Her unjust pretensions have been repelled by all Governments alive to the voice of honour and the interest of their people. She constantly found herself obliged to recognize, in her treaties, the principles which she wished to overturn; and at the time of the violation of the peace of Amiens, the body of maritime law still rested upon its ancient basis.

By a series of events, the English marine became more numerous than the whole forces of the other maritime powers. England then judged, that the moment was arrived, when, having nothing to fear, she might dare every thing. She instantly resolved to subject the navigation of all the seas, to the same laws with that of the Thames.

In 1806 commenced the execution of this system which tended to bend the common law of nations before the Orders in Council, and regulations of the British Admiralty.

The Declaration of the 16th of May, annihilated, by one word, the rights of all maritime states; placed under an interdict extensive coasts, and whole empires. From this moment England acknowledged no neutral on the seas.

The Orders of 1807 imposed on every vessel the obligation of putting into an English port, whatever were its destination, of paying a tribute to England, and of submitting its cargo to her Custom-house duties.

By the Declaration of 1806 all navigation had been interdicted to neutrals; by the Orders of 1807, the power of navigating was restored to them, but they could only make use of it in the service of English commerce, in combinations for her interest, and to her profit.

The English Government thus tore away the mask with which they had veiled their projects;—proclaimed universal dominion over the seas, looked on all nations as their tributaries, and imposed upon the Continent the expences of the war which they were carrying on against it.

These unheard-of measures excited a general indignation amongst those powers who had preserved a feeling of their independence, and of their rights: but in London they exalted the national pride to the highest degree. They held out to the English people a rich prospect of the most brilliant hopes: their commerce, their industry, were henceforth to be without a competitor. The produce of the two worlds was to flow into their ports, to do homage to the maritime and commercial sovereignty of England, by paying to them a duty, and afterwards to reach other nations, loaded with enormous expences, from which English merchandise, alone, would have been exempt.

Your Majesty, at a single glance, perceived the evils with which the Continent was threatened. You instantly discerned the remedy: you annihilated by your Decrees this pompous, unjust, and aggressive attempt upon the independence of every state, and the rights of all nations.

The Decree of Berlin replied to the Declaration of 1806. The blockade of the British Isles was opposed to the imaginary blockade established by England.

The Decree of Milan answered the Order of 1807. It declared denationalized, every neutral vessel which should submit to English legislation, whether by touching at an English port, or by paying a tribute to England, and should thus renounce its independence and the rights of its flag: all goods—the produce of the commerce and of the industry of England was blockaded in the British Isles:—the continental system banished it from the Continent.

Never did act of reprisal attain its object in a more prompt, more certain, and more victorious manner. The Decrees of Berlin and Milan turned against England those arms which she pointed against universal commerce. This source of commercial prosperity, which she believed to be so fruitful, became a source of calamity for English commerce; instead of those tributes which were to enrich her treasury, discredit, ever increasing, injured the fortune of the state, as well as that of individuals.

As soon as your Majesty's Decrees appeared, the whole Continent foresaw, that such would be their result, if they were put in full execution; yet, accustomed as Europe had been to see success crowning your undertakings, she

had difficulty in conceiving by what new means your Majesty would realize the grand designs which were so rapidly accomplished. Your Majesty armed yourself with all your power; nothing diverted you from your object. Holland, the Hanse Towns, the coasts which unite the Zuyder Zee to the Baltic Sea, were to be united to France; and subjected to the same administration and to the same regulations: the immediate and inevitable consequences of the legislative acts of the British Government. No considerations whatever could, in your Majesty's mind, counterbalance the first interests of your empire.

You soon reaped the advantages of this important resolution. These fifteen months past, that is to say, ever since the *senatus consultum*, by which this Union was enacted, the Decrees of Your Majesty have pressed with all their weight upon England. She flattered herself with carrying away the commerce of the World, and her commerce, become a barter for money, is only carried on by means of 20,000 licences, annually granted: Forced to obey the law of necessity, she thus renounces her act of navigation, the first foundation of her power. She pretended to the universal dominion of the seas: and her vessels are shut out from every port of the Continent:—She wished to enrich her treasury with the tributes that Europe should pay to her, and Europe has freed itself, not only from her injurious pretensions, but also from the tributes which it formerly paid to her industry. Her manufacturing towns are become deserts: Distress has succeeded to a prosperity, hitherto improving; the alarming disappearance of money, and the absolute want of employment, daily disturb the public tranquillity. Such is the result, to England, of her imprudent attempts. She already perceives, and she will every day perceive the more, that there is no salvation for her but in a return to justice, and to the principles of the rights of nations; and that she cannot participate in the benefits of the neutrality of ports, but in as much as she will allow neutrals to profit by the neutrality of their flag. But, till then, and as long as the Orders of the British Council shall not be repealed, and the principles of the Treaty of Utrecht, in regard to neutrals, shall not be re-established, the Decrees of Berlin and Milan must subsist, against those powers who shall allow their flag to be denationalized. The ports of the Continent must not be open, either to denationalized flags, or to English merchandise.

It must not be dissembled, that, in order to maintain in full vigour this grand system, it is necessary for your Majesty to employ those powerful means which belong to your empire, and to find in your subjects that assistance which you never demand from them in vain. It is necessary, that all the disposable force of France, be directed upon whatever point the English and the denationalized flags, or those conveyed by English ships of war, may wish to approach. A particular special army, entrusted exclusively with the guard of our extensive coasts, our maritime arsenals, and the triple range of fortresses which covers our frontiers, will answer to your Majesty for the safety of the territory confided to its valour and its fidelity: it will restore to their fortunate destiny, those brave men, accustomed to fight, and to conquer in the presence of your Majesty, in defence of the political rights and external safety of the empire. Even the dépôts of the troops will no longer be diverted from the useful purpose of keeping up the numbers of your armies on active service. The forces of your Majesty will thus be constantly maintained upon the most formidable footing; and the French territory, protected by a permanent establishment, dictated by the interest, the policy, and the dignity of the empire, will be so situated, as to entitle it more than ever to the denomination of inviolable and sacred.

For a long time past, the English Government has proclaimed eternal war. A horrible project, in which even the most unlimited ambition would not have dared to acquiesce, and the avowal of which a presumptuous boasting alone could have allowed. A horrible project which would nevertheless be realized, if France had only to expect engagements without guarantees, uncertain in their duration, and more disastrous than war.

Peace, Sire, which your Majesty, in the height of your omnipotence, has so frequently offered to your enemies, will crown your glorious labours: if

England banished with perseverance from the continent, and separated from all the states whose independence she has violated, shall consent, at length, to return to those principles on which European Society is founded, to recognise the law of nations, to respect the rights consecrated by the treaty of Utrecht.

In the meanwhile, the French nation must remain armed. Honour commands it:—The interest, the rights, the independence of the nations engaged in the same cause, and an oracle still more certain, often delivered from the mouth of your Majesty, constitute it an imperious and sacred law.

No. 4.

Viscount Castlereagh to Mr. Foster.

SIR,

Foreign Office, April 10, 1812.

THE communication which you are authorised, by my former dispatch of this date, to make to the American Government, cannot fail to prove a touchstone of their policy and intentions. It is impossible they should not deeply feel the embarrassments in which the insidious policy of the enemy, and their own weakness, have placed them. Under ordinary circumstances, it might be expected, that the conduct of a Government determined to prove to the world, that they would neither submit to be deceived, nor involved by France in such disgraceful transactions, would be to resent, in the most decided manner, the imposition practiced upon them; but the internal politics of America have so much connected the interests of the party in power with the French alliance, that I cannot encourage much expectation, whatever they may in their hearts feel, that they will be induced to assume any authoritative tone against France.

It is more probable, that the new aspect the question has now assumed, may awaken them to a sense of the desperate folly of attempting either to force or intimidate Great Britain, and that alarmed at the danger, even to themselves, of the former attempt, and the hopelessness of the latter, they may with more prudence than has lately marked their councils, see in this new posture of affairs, an opportunity of receding without disgrace from the precipice of war, to which they have been so inconsiderately approached.

To assist their retreat, without any unnecessary sacrifice of national dignity, is the sincere desire, and the best policy of Great Britain. To rescue America from the influence of France is of more importance than committing her in war with that power; and to revive the relations of amity and commerce between Great Britain and America, are objects more to be aimed at (whilst none of our essential rights are compromised) than protracted discussions, or controversial questions of maritime law. It is, on these grounds, the desire of the Prince Regent, if you should perceive a becoming temper in the Councils of America, that it should be met by a marked disposition on your part to conciliate. In the close of the former dispatch, I was commanded by His Royal Highness to declare, that whilst He never could compromise the maritime rights of Great Britain, His Royal Highness would be ready at all times to concert with America as to their exercise, and so to regulate their application, as to combine, as far as possible, the interests of America, with the object of effectually retaliating upon France the measures of her own injustice.

It is with reference to this principle, that I am now directed to call your attention to the question of licences to trade with the blockaded ports, in relaxation of the Orders of April 1809. You will not fail to recollect, that the complaints of America have never yet been urged very distinctly upon this ground: the Government of the United States having been in the habit of standing upon higher grounds of objection; but it nevertheless has been occasionally urged by them, that although these licences have been uniformly

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granted to neutral, as well as to British trade, the neutral merchant cannot profit by such relaxations, (especially the American merchant, from his remote situation), in the same degree as the British merchant can, regulating his transactions on the spot, where the licences are issued.

The extent to which this intercourse under licences has been carried, and the disposition evinced on the part of the French Government to give greater extension to it, will probably attract the notice of the American Government, and lead them to instance the magnitude of this particular trade, as an additional proof of the alledged injustice of our system: but if it should not occasion any formal representation on their part, there can be no objection to your advertng to it, as a circumstance strongly indicative, that whatever the Minister for Foreign Affairs may think fit to assert of the efficacy of the French Decrees against British commerce, and however France may be desirous to cloak her present projects in the North of Europe, under the pretext of enforcing, by her arms, the continental system, she is herself at this moment, obliged to yield at home, in breach of her own system, to the pressure of our retaliating measures, a very extensive direct trade with this country.

In advertng to this subject you will observe that, if, instead of impeaching the fundamental principles of our defensive rights, the Government of America had represented against the partial effects of any particular relaxation of those rights which we had adopted, the British Government would not have been indisposed to listen to such representations. It would have been ready, on the contrary, to have sustained much even of national inconvenience, to remove such grounds of complaint, provided there had been reason, at the same time, to believe that such a concession on their part would have led to a return of amity and commercial intercourse between the two States.

You may represent to the American Government, that the Order of April 1809, was, in a great measure, intended to meet the wishes of America, as well as to consult the interest of our allies, by the removal of certain inconveniences to which they were subjected, but which were not considered essential to the efficacy of our retaliatory system.

If America, at the time, had expressed any satisfaction with that modification of our Orders in Council, which, whilst it confined their sphere of action within narrower limits, applied the principle of the blockade itself within those limits, without any modification or exception, the British Government would not have broken in upon the strict rule of that Order by licences. But when we found it received by America in as hostile a spirit, as the original Orders in Council, there remained no reason, as far as the question of conciliation was concerned, why we should not accompany that Order, with some of the same regulations, relative to trade to and from the blockaded coast, and the ports of Great Britain (not only for ourselves but for neutrals) by means of licences, as were without any licences introduced into the original Orders, and formed a material part of the system on which they proceeded.

It has been urged against these partial relaxations of the blockade, that they tend to prevent or retard the attainment of its alledged object, namely, the abandonment of the hostile Decrees on the part of the enemy, in which neutral powers, who suffer from the effects of the blockade, have an interest as large as our own.

The objection would be just, if urged by a neutral who had acquiesced in the blockade, consented to await its effect, and done nothing to obstruct its operation. But the United States, on the contrary, have opposed our exercise of this retaliatory right, and permitted, not to say encouraged, the breach of the blockade, by the American merchants. The consequence has been, that a very considerable number of American ships have been able, either by eluding the notice of our cruizers, or by the mask of a false destination, to enter the ports of blockaded countries, and to sail from thence; thus relieving the necessities of the enemy, and delivering him in no small degree from the pressure of our retaliatory measures: they have also co-operated

with France, by prohibiting, in concurrence with her, the importation of British produce and manufactures into the ports of America.

Under such circumstances, America cannot fairly object to our accepting from the enemy such partial and progressive practical relaxations of his own rigorous system, as his necessities, arising out of the pressure of these very measures, may constrain him to yield, nor to our enabling our merchants, by licences, to avail themselves of those reluctant concessions, without being exposed to capture by ships of their own country, for engaging in a prohibited trade.

To relieve our commerce and manufactures from the oppressive effects of the hostile Decrees, by imposing upon the enemy such a measure of distress, as might oblige him to recall them, was the main object of our retaliatory system. To reject the exceptions, therefore, which he is driven to admit, would be, in some degree, to sacrifice the end for the sake of the means. The only adequate motives for such a sacrifice would be, either that, by refusing the exception, and maintaining the blockade with undeviating strictness, the general end might be sooner and more entirely attained, or that our retaliatory system might, by such strictness, be reconciled more easily to the views of neutral powers. But both these motives have been hitherto precluded by the conduct of the United States; while they are found irreconcilably adverse to the rule itself, it matters not, in a view to harmony with them, whether the rule itself be more strictly or loosely applied; nor can it be material to the ultimate effect on the enemy, whether exceptions to the rule of British licence, or contraventions of it by American merchants, with the approbation of their own Government, alleviate the enemy's distress. At least America has no right to exact from us an abstinence from the one, while she refuses to desist from the other.

If, however, the views of the American Government are altered on this subject, and if, without raising any further question on the principles in dispute, they are disposed to open the intercourse with us, upon condition that we shall again resort to the principle of rigorous blockade against the French dominions, to the exclusion of our own trade, equally with that of neutral nations, an arrangement upon such a basis you are hereby authorised to conclude; in which arrangement you may undertake, that upon an assurance being received from you, that the Government of America had actually determined to re-open the intercourse with Great Britain, from a period to be named, when it might be presumed that such notification had been received here; no fresh licences in defeasance of such blockade will be issued by this Government.

You will understand, that these acts must be made contemporaneous, as far as possible, in their effects, as the British Government could not stand justified to its own merchants and manufacturers, were they to relinquish the trade with France, at a moment when it promises to become so considerable, and affords so decisive a proof of the efficacy of our Orders in Council, unless the immediate re-opening of the markets of America should afford some sufficient compensation for the loss of that trade.

If you are right in supposing that the American Government may only want some new step on the part of this Government, on which to found a change of policy, and if the new and extravagant pretensions of the French Government should strangely fail to furnish a satisfactory ground for such conduct, the proposition you are hereby authorised to make, will afford them the fairest opportunity. If it fails of success, it will, at least, have served as a test of the principles, on which America stands. It will remove the whole argument of grievance, so far as it rests upon the collateral ground of the relaxations our Orders in Council have undergone, and bring the question at once back to the broad principles of our rights of blockade and retaliation.

If, however, America persists in requiring us to abandon our maritime rights, either as resting on the ordinary laws of maritime blockade, or the particular right we now insist on, of retaliating upon the enemy, as claimed under the Orders in Council, you will not express yourself in such a

manner as to encourage the most distant hope of our being induced to make such a sacrifice.

If, on the other hand, she complains only of the mode in which those rights are exercised in the intercourse permitted under licences with the blockaded ports, the British Government is ready, either to concert with America as to the mode in which they shall be hereafter exercised upon principles of mutual convenience, or it is ready, as above proposed, to wave all relaxations whatever, and to stand in future on the rigorous execution of the blockade.

Should, however, America refuse either of these alternatives, and notwithstanding the evidence she has lately obtained of the real designs of France, continue to exclude British commerce and British ships of war from her ports, whilst they are open to those of the enemy, it is then clear that we are at issue with America upon principles, which, on the part of this Government, you are not at liberty to compromise.

I am, &c.

(Signed)

CASTLEREAGH.

A. J. Foster, Esq.

No. 5.

Viscount Castlereagh to Mr. Foster.—Extract.

Foreign Office, April 10, 1812.

In case the question of alledged British interference in the hostilities between the United States and the Indian nations should be revived, I send you the inclosed copies and extracts of correspondence between General Sir James Craig and the Earl of Liverpool; which may enable you to give an official refutation of so unjust an imputation, on the part of the British Government.

(First Inclosure, referred to in No. 5.)

Sir James Craig to the Earl of Liverpool.

MY LORD,

Quebec, March 29, 1811.

Under the present circumstances existing between His Majesty's Government and that of the American States, I feel it to be necessary to forward to your Lordship the information that is contained in the inclosed letter and papers from Lieutenant Governor Gore, to which I add a copy of my answer to him on the subject.

This is the first direct communication that I have had either from Lieutenant-Governor Gore, or from any officer of the Indian department, relative to the intentions of the Indians.

My private accounts, however, which, though not official were equally to be relied on, gave me assurances of their determination to have recourse to arms so long ago as November, and in my wish to assist in saving the American frontier from the horrors usually attending the first brunt of an Indian war, by enabling them to take precautions against it, I communicated my accounts to Mr. Morier, although I thought that an official communication might be extremely objectionable. I gave him, however, permission, if he did not think it improper from any circumstance of situation in which he might find himself with them, verbally to convey the information to the American Government, and I have since heard from Mr. Morier that he did so.

In January I repeated to Mr. Morier that I continued to receive a confirmation of the intelligence I had before sent him, but I do not know whether he made any further communication to the American Government.

I have the honour to be, &c.

(Signed)

J. H. CRAIG.

The Earl of Liverpool.

&c. &c. &c.

(Second Inclosure, referred to in No. 5.)

Sir James Craig to the Earl of Liverpool.

MY LORD,

Quebec, May 21, 1811.

In a dispatch of the 29th of March last I thought it right to apprise your Lordship of the appearance of hostile intentions towards the Americans, which had shewn itself among the Indians in the upper country, as well as of the steps I had taken on the occasion.

In pursuing the same subject, I have now the honour to inclose copies of the letter I have received from Lieutenant-Governor Gore, and the instructions, which, in consequence of mine to him, he had given to the Deputy Superintendant of Indian affairs.

I have the honour to be, &c.

(Signed)

J. H. CRAIG.

The Earl of Liverpool.

&c. &c. &c.

(Letter referred to in Second Inclosure of No. 5.)

Governor Gore to Sir James Craig.

SIR,

York, Upper Canada, March 2, 1811.

I have the honour to acknowledge the receipt of your Excellency's letter of the 2d February, which reached me on the 24th.

I lost no time in directing the Deputy Superintendant General of Indian Affairs, to instruct the officers of the Indian department to caution and restrain the Indians from committing any act of hostility on the white inhabitants in this neighbourhood: an extract of my letter to Colonel Claus is herewith transmitted.

I have the honour to be, &c.

(Signed)

FRANCIS GORE,

His Excellency Sir J. H. Craig, K. B.

Lieut.-Governor.

(Second Paper, referred to in Second Inclosure of No. 5.)

Governor Gore to Colonel Claus.—(Extract.)

York Place, February 26th, 1811.

In further notice of Mr. Elliott's letter to you, it is desirable that you should desire him to be more than usually circumspect in his communications with the Indians, so as to leave no possible suspicion of favouring their projected hostilities against the United States of America; you will, therefore, direct him, as occasion may offer, to press upon the Indians the certainty of eventual misfortune to themselves, from any attack upon the whites, to point out to them that the Americans are become so strong, that any effort on their

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part to prevail by arms must be vain, and that it is from such an assurance, and out of regard for their safety, comfort, and happiness, that their Great Father expressly forbids that any encouragement should be afforded to them.

(Third Inclosure, referred to in No. 5.)

The Earl of Liverpool to the Governor of Lower Canada.

SIR,

Downing-Street, July 28, 1811.

IN reference to the dispatches of Lieutenant-General Sir James Craig, with their respective inclosures, on the subject of the hostile intentions which have been manifested by the Indians against the Americans, and of the measures which had been taken by that officer to dissuade them from a recourse to arms; I am commanded by His Royal Highness the Prince Regent to acquaint you, that the conduct of Sir James Craig, in this respect, has received His Royal Highness's entire approbation: and I am to desire that you will persevere in the attempts made by him to restrain the Indians from the commission of any act of hostility on the American frontier.

I have the honour to be, &c.

(Signed) LIVERPOOL.

The Officer administering the Government of Lower Canada.

No. 6.

Viscount Castlereagh to Mr. Foster.

SIR,

Foreign Office, April 17th, 1812.

THE result of the instructions which I have transmitted to you, by command of His Royal Highness the Prince Regent, on the subject of the pretended repeal of the French Decrees, will shew you that it is His Royal Highness's pleasure, that, in all the discussions which you may hold with the American Secretary of State, upon the conduct of his Government, you will constantly maintain the necessity of the production of the Document, by which those Decrees are absolutely and unconditionally repealed, before His Majesty's Government can think the moment is arrived, when they may justly be called upon to act upon the supposition of such repeal; and, in case the American Government shall attempt to quit this, the real point at issue, and shall advert to the position that, assuming the fact of the repeal quo ad America, America is, in that supposition, entitled to demand that the British Orders in Council should be rescinded as far as they affect America; in answer to this hypothetical case, you will always reply, that Great Britain can never allow that any such partial repeal of the French Decrees (even supposing that it had taken place,) can be pleaded in defeasance of her right of retaliating. An acquiescence in such a principle, on the part of Great Britain, would be to give to France the power, not only of delivering herself from the pressure of the war, as may best suit her own purposes, but of choosing which neutral shall be favoured, and in what degree, by both belligerents, which is a doctrine so monstrous, that it cannot possibly be assented to on the part of this country.

I am, &c.

(Signed)

CASTLEREAGH

A. J. Foster, Esq.

No. 7.

Viscount Castlereagh to Mr. Foster.

SIR,

Foreign Office, May 7th, 1812.

YOUR dispatches to the 12th of March have been received, and laid before the Prince Regent.

The intelligence you communicated, of the disclosure made by Mr. John Henry, of his correspondence with Sir James Craig, and with His Majesty's Government, had reached this country, through the American newspapers, a few days previous to the receipt of your dispatches, and I have only waited for the arrival of your official communications, in order to convey to you the commands of His Royal Highness the Prince Regent, with respect to the language which you are to hold to the Government of the United States upon this subject.

Immediately on the receipt of this dispatch, you will deliver to Mr. Monroe an official note, by command of His Royal Highness the Prince Regent, in which you will, in the strongest and most direct terms, disclaim, on the part of this Government any knowledge of the nature of the mission upon which Mr. Henry was sent by Sir James Craig, until several months after the whole was terminated, and after Mr. Henry had been specially recalled from the territory of the United States; you will add that no authority or instructions were ever given by this Government to Sir James Craig, to send into the United States any mission of the description alluded to.

You will acquaint the American Government, that, upon the receipt of Sir James Craig's dispatch of the 9th of June 1809, by which the instructions upon which Mr. Henry acted, were first made known to His Majesty's Government, it appeared to them that this person was sent into the United States for the purpose of procuring information at a period of menaced hostilities, when military preparations for the invasion of Canada were actually making, and when the American Secretary of State had recently declared to Mr. Erskine, His Majesty's Minister in America, (who, as his duty required, had reported that declaration to Sir James Craig), that, under the conduct which had been pursued both by Great Britain and France towards America, his Government would feel itself justified in commencing hostilities against either belligerents without further notice.

It was under these circumstances, and at a period when the military defence of the Government committed to his charge, was considered by that officer as likely to be materially affected by the temper and the disposition of the neighbouring states to act against Canada, that the instructions in question were framed by him, without the authority or knowledge of the Government at home. It never was, however, intended in any manner to approve, nor is it now proposed to justify the clause in those instructions, which, even under the menace of attack, authorized the agent to receive, in Sir James Craig's name, communications from leading men in those states, of the course they were likely to adopt in the event of war taking place between Great Britain and America.

When this subject was first brought under the observation of His Majesty's Government, the transaction was some months gone by; the intentions of the Governor of Canada were proved by the recall of the agent to have been dependent on the expectation of approaching hostilities; that part of the instructions which appeared objectionable had never been acted upon; and the pacific intentions of His Majesty's Government towards America, had been so recently, pointedly, and expressly conveyed to that officer, in a dispatch, bearing date the 9th of April, as to preclude any apprehensions on their part with respect to the future.

With regard to the recommendation which Mr. Henry received on leaving England last year, (two years after the termination of the whole transaction),

you will explain to the American Government, that there was no intention whatever in taking this step, to convey either to Mr. Henry, or to Sir George Prevost, any direct or indirect approbation of the instructions under which Mr. Henry acted. The recommendation given to him, with a view to his receiving remuneration, was considered merely as the fulfilment of a promise made to him by Sir James Craig.

You will, on the same occasion, intimate to the American Government, but in terms as little calculated as possible to augment the irritation which this disclosure appears to have occasioned, that His Royal Highness the Prince Regent has felt an equal degree of surprize and concern, that the American Government, upon receiving the communication from Mr. Henry, (by whatever motives and means that communication had been drawn from him) did not, in compliance with the course of all diplomatic usage between nations at peace, require an explanation of the transaction through you, or through their own accredited agent at this court, before they resorted to the extraordinary measure of bringing forward a charge of this nature against the British Government upon an ex parte statement, and upon documents, the fidelity of which they had not the means of verifying.

This act, however, on the part of the American Government, cannot be suffered to impede the frank and explicit explanation which the British Government deems it due to its own character to make upon this subject; and His Royal Highness the Prince Regent confidently hopes and expects, that the declaration and explanations which you are directed by this dispatch to address to the American Government, will be received by them in the same disposition to remove every existing cause of difference between the two countries, with which I have been commanded by the Prince Regent to address them to you.

I am, &c.

(Signed)

CASTLEREAGH.

A. J. Foster, Esq.

No. 8.

Mr. Foster to the Marquess Wellesley.—(Extract.)

Washington, January 17, 1812.

YOUR Lordship will see, by the enclosed copy of Mr. Monroe's answer to my note of the 17th ultimo, that this Government still continue to maintain the ground they have taken, while scarcely any reply is made to my complaint on the unjust operation of the Non-Importation Act on British ships of war. This answer, together with my letter, were laid before Congress yesterday, accompanied by a message from the President, pressing the Congress to continue their preparations.

Mr. Monroe maintains, that we have no right to interfere on the question of Licences granted by France to America, whatever reason the latter may have to object to them, and considers the absolute cessation of the French Decrees as proved, and as the only fact essential in the case.

I have in vain applied for a view of the instrument by which the French Decrees were repealed, which it is denied were necessary to be produced.

The American Minister still endeavours to prove, our retaliatory system has now for its object the continental system of France only, the trade between America and England being, as they contend, left free by France.

After an interval of more than a fortnight, Mr. Monroe at length, settled yesterday, that my letter should be laid before Congress, on the subject of the reports relative to the supposed agency of His Majesty's Government in instigating the savages.

I have the honour to send your Lordship a copy of it, as well as of Mr. Monroe's reply, which I obtained at length, after resisting various efforts on his part to persuade me to wave my desire of having the matter laid before Congress. On the ground that proof would be produced of British agents having actually instigated some of the Indians to hostility, I thought it right

to reject altogether any idea of avoiding discussion, on the grounds of some British having possibly been engaged in instigating the Savages; it being clear that they could have had no authority for the purpose, as I have stated, on the strong grounds of a communication last year from Sir James Craig, by which he authorized Mr. Morier to put the United States on their guard against the machinations of the Indians, who were known so far back as January 1, 1811, to be in the intention of invading the United States.

(First Inclosure, referred to in No. 8.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, January 14, 1812.

I have had the honour to receive your letter of December 17th, and I embrace the first moment that I could command, to make the observations which it suggests.

It would have afforded great satisfaction to the President, to have found in the communication, some proof of a disposition in the British Government to put an end to the differences subsisting between our countries. I am sorry to be obliged to state, that it presents a new proof only of its determination to adhere to the policy to which they are imputable.

You complain that the import of your former letters has been misunderstood in two important circumstances; that you have been represented to have demanded of the United States, a law for the introduction of British goods into their ports; and that they should also undertake to force France to receive British manufactures into her harbours.

You state, that, on the first point, it was your intention only to remonstrate against the Non-Importation Act, as partial in its operation, and unfriendly to Great Britain, on which account its repeal was claimed; and to intimate that, if it was persevered in, Great Britain would be compelled to retaliate on the commerce of the United States, by similar restrictions on her part:—And on the second point, that you intended only to urge, that in consequence of the extraordinary blockade of England, your Government had been obliged to blockade France, and to prohibit all trade in French articles, in return for the prohibition by France of all trade in English articles.

It is sufficient to remark, on the first point, that on whatever ground the repeal of the Non-Importation Act is required, the United States are justified in adhering to it, by the refusal of the British Government to repeal its Orders in Council; and if a distinction is thus produced between Great Britain and the other belligerent, it must be referred to the difference in the conduct of the two parties.

On the second point, I have to observe, that the explanation given cannot be satisfactory, because it does not meet the case now existing. France did, it is true, declare a blockade of England, against the trade of the United States, and prohibit all trade in English articles on the high seas; but this blockade and prohibition no longer exist. It is true also, that a part of those Decrees, did prohibit a trade in English articles, within her territorial jurisdiction; but this prohibition violates no national rights, or, neutral commerce, of the United States. Still your blockade and prohibition are continued, in violation of the national and neutral rights of the United States, on a pretext of retaliation, which, if even applicable, could only be applied to the former, and not to the latter interdicts; and it is required that France shall change her internal regulations against English trade, before England will change her external regulations against the trade of the United States.

But you still insist that the French Decrees are unrevoked, and urge in proof of it, a fact drawn from Mr. Russell's correspondence, that some American vessels have been taken since the first of November, in their route

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to England. It is a satisfactory answer to this remark, that it appears by the same correspondence, that every American vessel which had been taken in that trade, the seizure of which rested on the Berlin and Milan Decrees only, were, as soon as that fact was ascertained, delivered up to their owners. Might there not be other ground also, on which seizures might be made? Great Britain claims a right to seize for other causes, and all nations admit it in the case of contraband of war. If, by the law of nations, one belligerent has a right to seize neutral property in any case, the other belligerent has the same right. Nor ought I to overlook that the practice of counterfeiting American papers in England, which is well known to the continent, has, by impairing the faith due to American documents, done to the United States essential injury. Against this practice the Minister of the United States, at London, as will appear by reference to his letter to the Marquess Wellesley of the 3d of May 1810, made a formal representation, in pursuance of instructions from his Government, with an offer of every information possessed by him, which might contribute to detect and suppress it. It is painful to add that this communication was entirely disregarded. That Great Britain should complain of acts in France, to which, by her neglect, she was instrumental, and draw from them proof, in support of her Orders in Council, ought certainly not to have been expected.

You remark also, that the practice of the French Government to grant licences to certain American vessels, engaged in the trade between the United States and France, is an additional proof that the French Decrees still operate in their fullest extent. On what principle this inference is drawn from that fact it is impossible for me to conceive. It was not the object of the Berlin and Milan Decrees to prohibit the trade between the United States and France.—They were meant to prohibit the trade of the United States with Great Britain, which violated our neutral rights, and to prohibit the trade of Great Britain with the continent, with which the United States have nothing to do. If the object had been to prohibit the trade between the United States and France, Great Britain could never have found in them any pretext for complaint. And if the idea of retaliation, could in any respect have been applicable, it would have been by prohibiting our trade with herself. To prohibit it with France, would not have been a retaliation; but a co-operation. If licencing, by France, the trade in certain instances, prove any thing, it proves nothing more than that the trade with France, in other instances, is under restraint. It seems impossible to extract from it in any respect, that the Berlin and Milan Decrees are in force, so far as they prohibit the trade between the United States and England. I might here repeat that the French practice of granting licences to trade between the United States and France, may have been intended, in part at least, as a security against the simulated papers; the forging of which was not suppressed in England. It is not to be inferred from these remarks, that a trade by licence, is one with which the United States are satisfied. They have the strongest objections to it, but these are founded on other principles, than those suggested in your note.

It is a cause of great surprise to the President, that your Government has not seen in the correspondence of Mr. Russell, which I had the honour to communicate to you on the 17th of October last, and which has been lately transmitted to you by your Government, sufficient proof of the repeal of the Berlin and Milan Decrees: independent of the conclusive evidence of the fact, which that correspondence afforded, it was not to be presumed from the intimation of the Marquess of Wellesley, that if it was to be transmitted to you, to be taken into consideration in the depending discussion, that it was of a nature to have no weight in these discussions.

The demand which you now make of a view of the order given by the French Government to its cruisers, in consequence of the repeal of the French Decrees, is a new proof of its indisposition to repeal the Orders in Council. The declaration of the French Government was, as has been heretofore observed, a solemn and obligatory act, and as such entitled to the notice and respect of other Governments. It was incumbent on Great Britain, there-

fore, in fulfilment of her engagement, to have provided that her Orders in Council should not have effect, after the time fixed for the cessation of the French Decrees. A pretension in Great Britain to keep her Orders in force till she received satisfaction of the practical compliance of France is utterly incompatible with her pledge. A Decree, founded on any single act, however unauthorised, committed by a French privateer, might, on that principle, become a motive for delay and refusal. A suspicion that such acts would be committed, might have the same effect; and in like manner her compliance might be withheld as long as the war continued. But let me here remark, that if there was room for a question, whether the French repeal did, or did not take effect, at the date announced by France, and required by the United States, it cannot be alledged that the Decrees have not ceased to operate since the 2d February last, as heretofore observed. And as the actual cessation of the Decrees to violate our neutral rights, was the only essential fact in the case, and has long been known to your Government, the Orders in Council, from the date of that knowledge, ought to have ceased, according to its own principles and pledges.

But the question, whether and when the repeal of the Berlin and Milan Decrees took effect, in relation to the neutral commerce of the United States, is superseded by the novel and extraordinary claim of Great Britain, to a trade in British articles; with her enemy for supposing the repeal to have taken place in the fullest extent claimed by the United States, it could, according to that claim, have no effect in removing the Orders in Council.

On a full view of the conduct of the British Government in these transactions, it is impossible to see in it any thing short of a spirit of determined hostility to the rights and interests of the United States. It issued the Orders in Council, on a principle of retaliation on France, at a time when it admitted the French Decrees to be ineffectual; it has sustained those Orders in full force since, notwithstanding the pretext for them has been removed; and latterly, it has added a new condition of their repeal, to be performed by France, to which the United States, in their neutral character, have no claim, and could not demand without departing from their neutrality, a condition which, in respect to the commerce of other nations with Great Britain, is repugnant to her own policy, and prohibited by her own laws, and which can never be enforced on any nation without a subversion of its sovereignty and independence.

I have the honour to be, &c.

(Signed) JAMES MONROE.

A. J. Foster, Esq.

(Second Inclosure, referred to in No. 8.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, Dec. 28th, 1811.

I have been informed by Mr. Morier, that so long ago as the 3d of last January, in consequence of a written communication from Sir James Craig, His Majesty's Governor-General and Commander-in-Chief in Canada, dated the 25th of November 1810, acquainting him with his suspicions of its being the intention of some of the Indian tribes, from the great fermentation among them, to make an attack on the United States, and authorising him to impart his suspicions to the American Secretary of State; he had actually done so verbally to Mr. Smith, your predecessor in office, and on searching among the archives of this mission, I have found the letter alluded to of Sir James Craig, by which he did authorise Mr. Morier to make the communication in question, as well as a memorandum of its having been so made, as also an express declaration of Sir James Craig, that although he doubted there would

not be wanting persons, who would be ready to attribute the movements of the Indians to the influence of the British Government, yet that his department were actually making every exertion in their power to assist in preventing their attempts.

This evidence, Sir, of a friendly disposition to put the United States' Government on their guard against Indian hostility, and even to aid in preventing the calamity which has taken place, is so honourable to the Governor-General of Canada, and so clearly in contradiction to the late unfounded reports which have been spread of a contrary nature, that I cannot resist the impulse I have to draw your attention towards it, not that I conceive, however, that it was necessary to produce this proof to the United States' Government of the falsity of such reports, which the character of the British nation, and the manifest inutility of urging the Indians to their destruction, should have rendered improbable, but in order that you may be enabled, in case it shall seem fitting to you, by giving publicity to this letter, to correct the mistaken notions on the subject, which have unfortunately found their way even among persons of the highest respectability, only, as I am convinced, from their having been misinformed.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Third Inclosure, referred to in No. 8.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, Jan. 9, 1812.

I have had the honour to receive your letter of the 28th ult. disavowing any agency of your Government in the hostile measures of the Indian tribes towards the United States. If the Indians desired any encouragement from any persons in those measures of hostility, it is very satisfactory to the President to receive from you an assurance that no authority or countenance was given to them by the British Government.

I have the honour to be, &c.

(Signed)

JAMES MONROE.

A. J. Foster, Esq.

No. 9.

Mr. Foster to the Marquess Wellesley.

MY LORD,

Washington, January 18th, 1812.

I BEG leave to refer your Lordship to my note, dated December 13th, to Mr. Monroe, on the subject of the British ship *Tottenham*, and to my dispatch in which it is inclosed, for an answer to your Lordship's dispatch of the 7th of May last year, in which your Lordship signified to me His Royal Highness's commands, that I should inquire into the particulars relating to that ship, and report the same for the information of His Royal Highness; referring me, at the same time, to His Royal Highness's former commands upon the subject of aid and protection, supposed to be given in American ports to the privateers of France.

I am sorry to say, that the American Secretary of State has really been exceeding dilatory in replying to my notes on the subject. Your Lordship

will have seen, that I have not failed to bring it frequently under his view, and I have, on every occasion, when I had an opportunity, reminded him that I was expecting his answer, which he has never failed to promise me, on each occasion, should be sent without delay. I am indirectly informed, that the information which the Secretary of the Treasury has sent to the Department of State, respecting the sale which has been permitted of the cargo of the *Tottenham*, goes to shew, that the proceeds of the sale made will amount to but 1600*l.* instead of 20,000 dollars, as Mr. Barelay informed me; but whatever be the amount, it is clear that the transaction must be considered illegal, even were the admission of the prize consistent with the laws of neutrality, under present circumstances, as no repairs have been made, nor seem intended to be made.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

P.S. I have just received Mr. Monroe's answer, having again pressed for it this day, and send a copy inclosed.

A. J. F.

(Inclosure, referred to in No. 2.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, Jan. 18th, 1812.

I HAVE the honour to transmit you a copy of the Report of the Collector of the Customs at New York, to the Secretary of the Treasury, in the case of the ship *Tottenham*.

You will see from this Report, that the proceedings, as to this vessel, have been such as are pointed out by the long-established regulations of this Government in similar cases.

I have the honour to be, &c.

(Signed)

JAS. MONROE.

A. J. Foster, Esq.

(Paper referred to in Inclosure of No. 9.)—(Report.)

*Custom-House, New York, Collector's Office,
December 26th, 1811.*

SIR,

YOUR letter of the 18th instant I have received. The British ship *Tottenham* arrived in this port on the 29th August last, and was immediately taken possession of by the Custom-House. It soon appeared the ship was a prize to a French privateer, and had arrived in distress. A demand was made by the French Consul, in the name of the French Government, for the restoration of the ship; regular protests were made; the vessel was delivered up to the Captain.

Upon an examination of the ship by the Port Wardens, accompanied by a ship-carpenter, it fully appeared by their report, that the ship was so much damaged, many repairs were necessary, and that it was also necessary she should be hove out, and groved, before she could with safety proceed to sea. Application was made for permission to sell a part, or the whole of the cargo, (the amount being unknown to the Captain, as it had been all sent to the public store,) to pay the necessary expences for the repairs of the ship. I directed an appraisement and invoice of the cargo to be made, the amount of which was 159*l.* 2*s.* 10*d.* sterling, more than one-third of which were articles of a perishable nature. From the examination I made, and satisfac-

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tory evidence received, it appeared the whole would not be sufficient to repair the ship, (being upwards of 400 tons,) and put her in sufficient order to proceed on her voyage to France.

I have constantly urged the departure of the ship, and as uniformly received assurances that she would sail as soon as she was fit for sea; but the total desertion of her crew, with many other embarrassments, had delayed, and yet does delay, her departure.

I am, &c.

(Signed)

DAVID GELSTON.

Hon. Albert Gallatin.

No. 10.

Mr. Foster to the Marquess Wellesley.—(Extract.)

Washington, February 1, 1812.

I HAVE received from Sir George Prevost further evidence of the efforts made in his department to prevent the late attacks of the Indians upon the United States. I am happy to say, that my letter on this subject, which was laid before Congress, appears to have done away all the odious suspicions which were disseminated in regard to it, not a rumour having been since circulated relative thereto injurious to Great Britain. I will add, that Mr. Monroe's answer to my letter has been much blamed for the ungracious manner in which it is couched, even among his own party.

No. 11.

Mr. Foster to the Secretary of State.—(Extract.)

Washington, February 29, 1812.

I HAVE, at various times, given accounts to your Lordship of bills and resolutions which have been introduced into either House of Congress, and appeared to be very important at the time of their introduction there, but which have since been lost sight of; and I am sorry to have the mortification of informing you, that no one act has yet been passed, grounded on any complaints of this country against the Government of France. On my remarking this to Mr. Monroe, and alluding particularly to the practice of French agents in the American ports, in granting licences to the American merchants, which practice he had stated it to be the early intention of Congress to prohibit, Mr. Monroe replied, that it was true they had been dilatory, and seemed to wish to throw all the blame on the Senate, on whose table the bill still lay relative to that practice.

When I pressed upon him the recollection of his own language, as to the speedy return of the Constitution frigate, and the decisive answer from France to be expected by her, he made the excuse of Buonaparte's absence so long from Paris, of the necessary forms to be observed, and, finally, of the arrival at Cherbourg of the Hornet, which thereby rendered it unnecessary for Mr. Barlow to detain the frigate.

No. 12.

*Mr. Foster to the Marquess Wellesley.—Extract.**Washington, March 9, 1812.*

In the note of which the inclosed is a copy, I have adduced two new instances of American vessels, which appeared to have been captured under the Berlin and Milan Decrees; and, in consequence, have urged the continued necessity there was for our having a copy of the instrument, by which those Decrees were said to be revoked, in order to be able to judge to what extent the revocation went. I have also made a strong appeal to the justice of the American Government, on their exclusion of British ships of war from the ports of the United States, while those of France are admitted, pressing upon them the strong fact of the Secretary of State's having given as a reason for not allowing the entrance of the harbours of the United States to British ships of war, when Mr. Erskine's arrangement took place, that if they did so, the French would consider such exclusive favour to Great Britain, an open act of hostility against them.

*(Inclosure, referred to in No. 12.)**Mr. Foster to Mr. Monroe.*

SIR,

Washington, March 3, 1812.

His Majesty's Consul at Boston, has transmitted to me a statement of the case of an American ship, the Catherine, which was captured by a French privateer, carried into Dantzick, and condemned at Paris, upon grounds which go to shew, that notwithstanding the language held as to the supposed repeal of the French Decrees, the principles of these Decrees still continue to be rigorously acted upon.

The circumstances are these, as His Majesty's Consul has represented them from the protest of the supercargo, who states, "that he arrived at Gottenburg on April 12, 1811, and sailed again on the 23d of the same month for St. Petersburg; that he passed the Sound, having paid the duties at Elsineur; that on the 3d of May following, he was captured off the Island of Bornholm, by the French privateer le Jeune Adolphe, and conducted to Dantzick; that the ships papers were transmitted to Paris for a decision in the case; that the Council of Prizes in Paris, by their sentence, dated September 10, confiscated the Catherine and her cargo, therein stating as follows:

"Attendu que la relache faite par la Catherine à Gottenbourg, où se trouvoit un Paquebot Anglois armé, est déjà un indice que l'expédition de ce bâtiment chargé en presque totalité de denrées coloniales, et de bois de teinture, se faisoit dans l'intérêt du commerce ennemi."

The documents, I understand, relating to this ship, have been sent by the owners to the Government at Washington. Had no regular condemnation of her taken place, the captain of the privateer might possibly have been considered as alone responsible, and the French Government not have been committed; now, however, having the whole proceedings before us, it seems impossible not to consider the transaction as one, on the part of the French Government, in direct contradiction to the impressions which they have desired to convey of their obnoxious Decrees having been repealed. If it shall be said that the Catherine was not captured in the direct trade with Great Britain, it is to be observed, that she was however taken on the high seas, and that the condemnation was even principally grounded on an aggravation of the principles of the Decrees themselves; namely, on the circumstance of her having

merely visited a port, though in amity with France, where there was a British armed vessel. It is to be added, according to the declaration of the supercargo, that the Catherine had not even been under any convoy, nor sought protection therefrom, nor required, nor made use of assistance from the packet, nor from any vessel whatever.

Another instance of the continued infringement of the rights of neutrals, by the Berlin and Milan Decrees, might be furnished in the case of the brig Julian, captured on her way from Norway to St. Petersburg, and also condemned by the Council of Prizes at Paris. I request permission to transnit to you, Sir, lest they should not have been already laid before you, the circumstances of this case, as they are detailed in one of the public prints. The evidence here seems strong, as to the opinion still maintained in the French Courts of the existence of those Decrees, the circumstance of visitation by an English cruizer of the Julian, being among the charges alledged against her.

What I mean to infer, from these above quoted instances of French violence to neutral rights, is, that in general where an opportunity occurs of putting to the test the sincerity of what has been supposed in America, to be an unqualified declaration of the Government of France of the cessation of their Decrees, the fact speaks against them.

Is it not, therefore, reasonable that, with the conviction entertained in Great Britain, that the letter of M. Champagny of August 1810, was composed with studied ambiguity, joined to the occurrence of such cases as those above stated, His Majesty's Government should not desire to see the document by which the Decrees have been repealed, in order to see to what extent the repeal, if there has been any, really does go? When the cessation of any blockade is notified to the Minister of a friendly power in Great Britain, it is true that the notification itself is usually considered to be sufficient; but, then these notifications are founded on regular and formal orders, the production of which, if required, Great Britain would readily grant, and which in no instance has been refused. These notifications are addressed from one nation in amity, to another in the same relation; no corresponding abandonment of commercial, or other restrictions is required from that nation to whose Minister such a notification is made. He is on the spot; he can ascertain the truth of the facts stated; if any doubts should exist, he can obtain explanations if necessary directly from the Government from whose authority the notification is made; and he may act upon the notification or not, according to his own judgment or discretion.

On the other hand, the notifications now under discussion are made by the enemy. Great Britain is called upon to act in consequence of a notification from the French Government in a state of war, and is required to forego her measures of self-defence against the enemy, upon the faith of an equivocal declaration. No resident Minister in France can ascertain, on the part of Great Britain, the truth of the alledged revocation; no satisfactory means exist of obtaining explanations of those ambiguities, in which the notification appears to be studiously involved. In this case it is the peculiar interest of the enemy to deceive, and it is well known to be his practice to attempt fraud, wherever fraud promises subsidiary aid to violence, and treachery can facilitate the use of force.

The admission of some ships into the ports of France, contrary to the provisions of the French Decrees, and the release of others, are no proofs that the Decrees are revoked. These vessels may have entered under special licences; they may have been cleared by special favour; at the utmost, it is evidence only of a partial suspension of the Decrees. If the Decrees are revoked, *bonâ fide*, and are really no longer in existence, some instrument must exist by which that revocation has been effected. If the production of such an instrument be pertinaciously refused, or studiously evaded, the inducements for requiring this satisfaction on our part are greatly strengthened by the suspicions which must arise from the colour of the whole transaction.

I am enabled, Sir, by recent communications received from my Government, to re-assure the United States' Government, on the part of His Royal Highness the Prince Regent, in the name, and on the behalf of His Majesty, of the sincere desire His Royal Highness entertains to cultivate the most amicable relations with the United States, and of His being anxious to interpret their transactions in the most favourable and amicable sense. But His Royal Highness cannot view with indifference the unmerited restrictions placed by the operation of the Non-Importation Act, upon the commerce of His Majesty's subjects, nor the unfriendly preference manifested towards the ships of war of His Majesty's enemies, while His Majesty's ships of war are excluded from every port belonging to the United States, although His Majesty's officers have been most carefully instructed to avoid every occasion of disagreement with those of America.

Such exclusion of all ships of war belonging to one belligerent party, while those of the other are protected by the harbours of the neutral power, has always been considered as a direct violation of the principles of neutrality, and appears to have been acknowledged as such by the United States, when on the occasion of the Non-Intercourse Act being enforced exclusively in regard to France, in the year 1809, it was expressly stated to Mr. Erskine, that British ships of war could not even then (when the most complete friendship existed between the two countries), be permitted to enter the United States' ports, lest France should consider such exclusive permission to her enemy, as an open act of hostility against her; also, when in consequence of the affair of the Chesapeake, British ships of war were first excluded from the American ports, the Government of America then distinctly disclaimed any desire of giving any preference in favour of the ships of war of one belligerent to those of the other, and that exclusion was declared to be only temporary, and as a precautionary measure to prevent a recurrence of conflicts at the time between our respective ships of war.

It is to be observed, that if the exclusion of British ships of war from American ports, on the enactment of the Non-Importation Act, was meant as a consequence of the Chesapeake affair having been unsettled, the settlement of that difference takes away the ground for the continuance of such exclusion, and the United States should revert to a state of neutrality between the belligerents, before she can justly claim the rights of a neutral nation.

I will add, that as the measures of Great Britain, on which the re-establishment of certain parts of the Non-Intercourse Act is retaliatory, were purely of a commercial nature, not affecting the ships of war of the United States, it should seem still more strongly to follow that the retaliatory measure should also have been confined to commercial regulations, and not have affected the ships of Great Britain bearing the national flag.

In concluding this letter, I beg leave, Sir, once more to revert to the subject of the instrument by which the Decrees of Berlin and Milan may have been repealed. The French Government have not many armed ships at sea, but almost wherever they appear, it seems they commit acts of violence and irregularity, which are constantly at variance with the statement of a repeal of those Decrees; and the person who rules over France, on nearly every occasion where he has to speak of them, pronounces them to exist as fundamental laws of his empire; consequently, it is but natural to continue to believe that the Declaration of his Minister in August 1810, was purposely ambiguous in its language; and that, in reality, no orders whatever have ever been issued to his commanders, founded on an intention on his part to repeal his Decrees. I beg to ask you, therefore, Sir, if you have any knowledge of such instrument existing? It is the sincere desire of His Majesty's Government, to be enabled to do on their part what may restore the relations of complete amity between Great Britain and the United States; and, if by the production of such a document, the strong suspicions of ill faith on the part of the Ruler of France, which his personal declarations, the deceptious language of his Ministers, and the lawless conduct of his officers, have justified, can be removed, and thereby also be removed the causes which have prevented the

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revocation of His Majesty's Orders in Council; I cannot but hope that you will see the expediency of requiring it without delay at the hands of the French Government.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Paper referred to in Inclosure of No. 12.)

Case of the Brig Julian.

THE Imperial Council of Prizes, have rendered the following decision:

Seeing the verbal process made at sea the 4th of May 1811, by the French privateer, the *Maria Louisa*, arrived at Hamburgh, and that on the same day that privateer made prize of the vessel *Julian*, under American colours, commanded by Edward Abbott, from Norway, bound to Petersburg, with a cargo of sugar, coffee, indigo, logwood, medicines, and nankeens.

Seeing the instructions made on the 12th of the said month of May, by the French Vice Consul of Dantzick, in which it is seen first, that the captain of the *Julian*, did declare, that his vessel was bound to Gottenburg, or some port in the Baltic, that he did not touch but at Norway, where he was captured by a Danish privateer in June 1810, where he remained nine months, and that he knows that it cost very dear for the restitution of the vessel; that, on her voyage from America to Norway, he was hailed but not visited by an English brig; that on his voyage from Norway to Gottenburg, he was visited by a British frigate, who sent an officer on board to examine her papers, and going from the last port to Elsineur, he was visited by an English brig, which compelled him to come on board of her, the 24th of April 1811; that he did not believe that those events merited an insertion in his log-book, and that a price current of London, which was said to appertain to the supereargo, was produced.

Second, that William Bell, supereargo, did declare that the whole cargo was conformable to the certificates of origin, except two tons of tobacco sold to pay the expences at Norway, amounting to fourteen thousand six dollars; that he did not give any satisfactory explanations, as respects a note in his own hand writing, indicating that certificates of origin might be obtained even for merchandize, coming from places occupied by the English, and on a little paper annexed to that note, which indicates a correspondence, at Liverpool; that he has acknowledged his vessel has been visited, and that a great part of his cargo, which he says is for Petersburg, was insured.

Third, that Olken, the Pilot, heard the crew of the vessel say, that he had no occasion for an English licence to navigate.

Fourth, that the pilot and the seamen Appt, and Samuel Eusen, did acknowledge the visits made by the British.

Seeing the papers found on board the *Julian*, which belong to the vessel, viz.

- 1st. A register dated at Philadelphia the 3d. of April 1809.
- 2d. A passport dated the 24th of said month.
- 3d. A passport, in four languages, of the 7th May 1810, for the crew.
- 4th. A shipping article, a roll of the crew, and a certificate of health, of the 10th May 1810, and for the cargo.
- 5th. Eight bills of lading, together with the proof of the owners, made by the shippers in May 1810.
- 6th. A manifesto of the 7th of May.
- 7th. A certificate of the officers of port as respects the clearance of the vessel.

8th. Two declarations, made the 14th of April and 11th of May 1810, by the shippers, to the Vice-Consul of France at Philadelphia.

9th. A certificate of origin, signed with the name of the Consul-General of France, the said 11th of May, and a duplicate on same certificate, directed to the Director-General of the Customs of the French Empire.

10th. Certificates of the Danish and Russian Consuls of the 10th of said month of May.

11th. Instructions given to Captain Abbott, at Philadelphia, in May 1810, and at Gottenburgh, the 23d of April 1811.

12th. A certificate of average, dated at Christiansand, the 24th of October 1810, also the log-book, with a book of navigation, the note written by the supercargo, the notice of the price-current of London, a letter of recommendation for a merchant in Heligoland, and sundry letters from Philadelphia and Salisburg to the supercargo.

Seeing the memorial signed by De Licge, attorney, and registered the 9th of this month, by which the owners and crew of the privateer Maria Louisa have concluded to the confiscation of the vessel and cargo.

Hearing the report of M. Laloy, counsellor, together with the substitute of the Imperial Procurer-General, and his conclusions left in writing on the desk, all seen and considered.

Forasmuch that it is acknowledged by the captured crew, that the Julian, loaded with colonial merchandize, having touched at Gottenburg, and was visited by divers English vessels of war; that papers found on board indicated that the supercargo thought on the possibility of procuring false certificates of origin, and corresponded with merchants of Liverpool; that besides, there is no doubt that the vessel entered the Baltic, with an English convoy; that nothing justifies that she has paid the Sound duties, in passing Elsinour; that from that it must be concluded, that she was herself English; it is for the same reason that he was obliged to purchase, with great sacrifice, his release at Norway, where he would have been received as a neutral, if he was really American; therefore on that report there is ground to confiscate the whole, without any necessity to observe any delay.

The Council decides, that the prize made by the French privateer the Maria Louisa, of the vessel under American colours, the Julian, carried to Dantzick, is good and lawful; in consequence, adjudges to the owners and crew of the said privateer, the said vessel, her tackle, utensils, and appurtenances, and merchandize composing her cargo, so that the whole may be sold in the form and manner prescribed by the laws and regulations as respect prizes, and the net proceeds be delivered to the owners and crew, deducting the duties belonging to the invalids of marine, as per the regulation of the 2d Priarial, year 11; and all guardians, sequesters, and depositories are bound to abide by, and are answerable even in their person, and if complying are discharged.

The disbursements of the owner of the privateer shall be allowed in the general liquidation, and affixed to the sum of three francs, 3,100, not including the charges of the present division, which shall be accounted for.

Done at the Imperial Council of Prizes, sitting at the Oratory, at Paris, the 10th of September 1811.

(Signed)

The Count of the Empire,

BERLER, President.

And LALOY, Judge.

Copy of the original.

The Secretary General.

(Signed)

CALMELET.

Registered at Paris, 17th September 1811.

Received three francs - - - - - 30-100.

(Signed)

RUCON.

Fees received.

Registering	3 francs	30
2 fils.	2	20
Copy	1	
Signature.	3	

Francs 9 50

Received,

CALMELET.

Seen by us, Imperial Procuro General near the Council of Prizes, Paris,
13th of September 1811.

(Signed)

COLLET DUCOSTEL.

I, the undersigned, Consul of the United States, and their Agent of Prize Causes at Paris, do hereby certify that the above signature is in the true hand-writing of Mr. Calmelet, Secretary General of the Council of Prizes, and that full faith and credit are and ought to be given to the said signature.

Given under my hand and seal of the Consular Office, this 21st day of September 1811, and the thirty-sixth year of the independence of the said States.

(L. S.)

(Signed)

D. B. WARDEN.

State of Pennsylvania.

I, Benjamin Nones, Notary Public, and sworn Interpreter of Foreign Languages for the Commonwealth of Pennsylvania, duly commissioned and qualified, dwelling in the city of Philadelphia, certify, on this day, the 6th February, in the year 1812, the foregoing is a just, true and faithful translation of an original condemnation, by the Council of Prizes at Paris, of the brig Julian, Abbott, master.

In testimony whereof, I have hereunto set my hand, and affixed my notarial seal, the day and year aforesaid.

BENJAMIN NONES,

Notary Public and Sworn Interpreter, &c. 1812.

I, Gottlieb Wilhelm Skerle, the undersigned, sworn notary public, do make known by these presents, that this day, the second day of October, 1811, before me appeared Captain Edward Abbott, of Philadelphia, who declared and entered with me the following protest and reservation of right:

Done at Dantzic, in the Notarial Office, the 2d of October 1811.

Before me the undersigned, public sworn Notary of the city of Dantzic, this day personally appeared Edward Abbott, now residing in this city, well known to me, commanding the American brig Julian, and declared, with the assistance of his consignee, Theodore Frederick Hennings, citizen and merchant of this place, that he had received the act of condemnation of his aforesaid ship Julian, passed in the prize court at Paris, the 10th of September of this present year, and having examined the grounds of condemnation, he found that they were false and unjust. This had determined him for himself, as well as for the owners of the said brig, and for all those concerned therein, most solemnly to protest against said condemnation of the brig and cargo; and also against every loss and damage which shall, can, or may accrue to them who are concerned in the brig Julian and the cargo thereof; and finally, against the sale of said vessel and the cargo thereof, as he by these presents doth; and by means of this protest, which he wishes to be considered as a continuation of the protest of the 24th of May 1811, against the French privateer Imperatrice Marie Louise, reserves to himself all claim of a full indemnification of all losses, against whomsoever it will concern. At the same time he reserves to himself also the privilege to extend this protest, whenever time, place, and circumstances should allow it.

The appearer requested, at the same time, that this protest be expedited in triple, and to deliver three copies to him, as he would deliver them himself.

The preceding declaration and protest being thereupon read to the appearer, against whose ability of deposing no legal objection can be made, in the German as well as the English language, by his correspondent Mr. Hennings, the same was entirely by him approved, and in proof thereof signed by him, as well as by Mr. Hennings, as follows :

EDWARD ABBOT,
THEODORE FRED. HENNINGS,
As Consignee.

Whereupon this record was closed, and at the request of the protestant, expedited per triplicate, in a legal form. Done as above.

SKERLE, Notary.

Witness my own signature, and my official seal annexed hereto for public authentication. Done at Dantzic, the 2d October 1811.

(L. S.)

GOTTIELE WILHELM SKERLE,
Sworn Notary Public of the City of Dantzic.

I, Charles Erdman, sworn Interpreter of Foreign Languages, in and for the Commonwealth of Pennsylvania, by lawful authority duly appointed and commissioned, residing in the city of Philadelphia, do certify, that the preceding is a faithful translation of a certain original paper, written in the German language, presented to me by William Bell, Esq. of this city, merchant, and by me returned to him.

In witness whereof I have hereunto set my hand and seal of office, this 6th day of February 1812.

CHARLES ERDMAN, Int'r.

No. 13.

Mr. Foster to the Marquess Wellesley.—(Extract.)

Washington, April 1st, 1812.

ON the 24th ultimo, Mr. Pitkin, a member from the state of Connecticut, laid before the House of Representatives a statement on oath, which had been sent to him by the Captain of an American ship, belonging to Newhaven, giving an account of the burning of two American merchant ships, by a French squadron from Nantz, the commander of which, Mons. Forretin, had verbally avowed, that he had orders to burn all American vessels sailing to or from an enemy's port, although a written document which he gave, stated his orders to relate to such only as were bound to Lisbon or Cadiz. A very great sensation was created by this news, notwithstanding persons in the confidence of the President gave out, that the act might be justifiable, if the ships were burnt as being bound to Lisbon, as a port of naval equipment, on the grounds of a decision in His Majesty's High Court of Admiralty, in the year 1799, in the case of a Pappenburgh ship, the Yonge Margaretha, to be found in Robinson's Reports, Vol. I., which, however, does not seem to be a case in point.

Upon this I judged it advisable to write the inclosed note to Mr. Monroe, shewing the recent outrage committed by the French on the high seas, to be a new ground for my demanding to see the instrument by which their Decrees were said to be repealed, and concisely bringing into view the marked difference which existed between our just and conciliating conduct towards this country, and that which has been invariably pursued by the French Government, thereby following His Royal Highness's instructions, as contained in your Lordship's dispatch of the 28th of January of this year.

(*Inclosure, referred to in No. 13.*)

Mr. Foster to Mr. Monroe.

SIR,

Washington, March 27th, 1812.

NOTWITHSTANDING that, in our late correspondence, I have repeatedly urged the necessity there was for the production of the instrument by which the French Government may pretend to have repealed their Decrees, and that I have already stated very many of the reasons which existed for this demand on our part, arising out of the language held by the Ruler of France himself, the ambiguous and deceitful writings of his Ministers, and the unlawful conduct of his officers, I am induced again to call your attention to the subject, in consequence of the recent outrageous violation of the neutrality of the United States, exhibited in the burning, on the high seas, of several American vessels, as it appears, on the ground of their being bound to a port belonging to the enemies of France.

The fact of this outrage having been committed, appears to admit of no doubt, since it seems to have come under the consideration of Congress in an authenticated shape.

In some of the letters which I had the honour to receive from you, Sir, in the course of our discussions of last year, you pressed upon me, in support of your argument, that the French Decrees were actually repealed, the circumstance of my not being able to point out instances of captures at sea, by French cruizers, directly in proof of their violation of your neutral rights; and although every other evidence of their existence seemed to abound, and to furnish strong and incontrovertible proofs of the fact, yet, from the few French ships of war which then ventured out to sea, their infringements of the neutral rights of America on the high seas, were necessarily not numerous; now, however, it most incontrovertibly appears, that I was not mistaken in my statement; that it was only owing to the want of opportunity, if the Government of France had not lately furnished, on the high seas, as well as in every other way, continued evidence of their total disregard of all your rights of neutrality.

It cannot be presumed that the late captures of American vessels by French frigates, could have been a consequence of any other than the Decrees of France already in existence, and violating the rights of neutral nations, for France is not at war with America, and no new Decrees appear to have lately been announced to the world by her Ruler, which gave notice of any renewed intention upon his part to commit fresh injustice.

I cannot then, but trust, Sir, that these recent acts will entirely remove whatever doubts remained with the Government of the United States, as to the perfidy of the Ruler of France, and that whatever may have been the view, till now, taken of the conduct of the French Government by that of the United States, which led to a course of measures in America, highly favourable to that power, while they were injurious, and almost hostile, towards Great Britain, the United States' Government will at length see cause to change their policy towards the two belligerents, or, at least, to return to a state of impartiality between them. At any rate, I must hope that you will agree with me in the necessity of ascertaining, more precisely, what are the real principles by which the French Government act towards America, in order that we may be able to regulate our conduct accordingly.

I need scarcely here repeat, Sir, the sincerity of our desire to do every thing in our power, consistent with the maintenance of our honour, and of our just rights, to conciliate the United States. The conduct of Great Britain has sufficiently shewn such to have been our invariable wish, while that of the Government of France has afforded to it the most striking contrast. In proof of this, it seems almost superfluous to bring to your recollection, the manner in which the Non-intercourse Act has been received in either country;—in

France it was retaliated upon (though it was applied at that time impartially to both countries) by the Decree of Rambouillet, and by subsequent seizures of American ships and property;—while, in England, (even when it was repealed with respect to France, and French ships of war were admitted into American ports, those of England being excluded,) Great Britain nevertheless still continued to admit, without obstruction, American ships into her harbours. If America complains of our Orders in Council, she must complain still more loudly of the French Decrees, also, which preceded them; and she will remember, that, in addition to the injuries she received through them from the Government of France, are those she suffered from the Decree of Rambouillet, and the outrages committed in burning the American ships on the high seas.

I will only add, Sir, a few words further, in comparison of the conduct of the two Powers towards the United States. Whatever measures have been adopted by Great Britain, which may have incidentally had an injurious effect upon the trade of this country, have been the result of necessity, forced upon her by the lawless conduct of her enemy; they were tardily enacted, and openly announced, so as to give fair notice of their intended effect, and to give warning to the mercantile world; while those of the enemy were unjustifiable upon any plea, the creatures of a wanton and greedy love of plunder, and of a barbarous abuse of power; many of them retrospective in their operation, and none of them connected in their execution with any attention to the feelings or the interests of the unfortunate individuals who were unknowingly subjected to them.

These considerations, Sir, should have their weight in estimating the conduct of Great Britain and France towards this country. I cannot but hope that they will; and should the late violations of the neutrality of America upon the high seas, produce that conviction which it seems calculated to do, of the duplicity with which the Ruler of France has acted towards the United States, I trust that they will accelerate the return of the American Government to their former relations of friendship with the Government of Great Britain.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

No. 14.

Mr. Foster to the Marquess Wellesley.

MY LORD,

Washington, April 1st, 1812.

I HAVE the honour to transmit to your Lordship, the inclosed copy of a letter, which I wrote to Mr. Monroe, on the subject of the misconduct of several of the inhabitants of Annapolis, towards the master and some seamen belonging to the hired armed Ketch, Gleaner, and in endeavouring to seduce the seamen from their duty.

I have as yet received no answer from the Secretary of State.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Marquess Wellesley,
&c. &c. &c.

(*Inclosure, referred to in No. 14.*)

Mr. Foster to Mr. Monroe.

SIR,

Washington, March 30th, 1812.

I HAVE the honour to transmit to you inclosed, an extract of a letter from the master of His Majesty's hired armed Ketch, *Gleaner*, lying off Annapolis, addressed to Lieutenant Green, her Commander, who is now in this city, giving an account of the circumstances attending the highly improper conduct of some of the inhabitants of Annapolis, towards the master and crew of that vessel, which I had the honour to represent to you verbally this morning.

Numerous instances, I am sorry to observe, have occurred of late, where encouragement and protection have been offered by inhabitants of the United States, to deserters from such of His Majesty's ships as have had to enter the waters of the United States, on matters of public business. In this instance, however, the individuals concerned proceeded further; they not only gave protection to three deserters from the *Gleaner*, but after making prisoners the master, his mate, and such seamen as were with him, who were committing no offence against the laws of the United States, and having carried them to Annapolis, they seem to have ill treated the master, made his men drunk, and then tried, while they were under the influence of liquor, to seduce them from their duty, and actually succeeded in engaging the coxswain to desert.

I need not, I am persuaded, Sir, dwell any further upon the indecency of these excesses, for the Government of the United States to see them in their true light, and to take such notice of them as may appear most proper.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(*Paper referred to in Inclosure of No. 14.*)

Mr. William Quiller to Lieut. Green.—(Extract.)

Annapolis, March 27, 1812.

I beg to inform you, that on Saturday evening, three men named William White (carpenter), James Scot and Robert Killenbruk, made their escape from the ship in the jolly boat. I was on shore at a little distance from the ship—getting fire wood, and was soon apprized of it by guns from the ship. I immediately pursued them, accompanied by Mr. Domminick (the mate) and four of the *Gig's* crew, but not coming up with them after going three or four miles, I gave over the pursuit, and was on my return to the boat, when I was met by a party of about thirty men (armed) who took us, as they termed it, prisoners of war, and marched us into Annapolis, where, making the men drunk, they persuaded them not to go on board again, that they were in a free country, &c. and succeeded in getting Prowse, the coxswain. We were then liberated. I never was so ill-treated: myself and Mr. Domminick, had muskets, charged with small shot, for shooting wild fowl, which were all the arms we had.

No. 15.

*Mr. Foster to the Marquess Wellesley.—(Extract.)**Washington, April 2d, 1812.*

An embargo bill was carried in the House of Representatives last night. It has been under discussion in the Senate this day, until five *p. m.* when that body adjourned. This morning it was confidently believed that the Senate would have rejected it, but the Government, at whose recommendation it has been proposed, have met with greater support there than was expected.

It is not above four or five days since the Committee for Foreign Affairs applied to the Secretary of State, as I hear, to know what further measures the President wished them to propose, and whether he desired a resolution, recommending an embargo to be laid on the table of Congress, or at what time he wished for a declaration of war against Great Britain. In consequence of this application, I am given to understand, a conference took place between the Members of the Committee and the Secretary of State, at his department, and on the following day, the 31st ultimo, Mr. Monroe went before them, and communicated the President's wish, that a temporary embargo of sixty days should be imposed on the American shipping.

A great deal of personal abuse took place between the members belonging to the different parties, on the occasion of the debate in the House of Representatives, as I am informed. They seem, however, to be the most exasperated on the Government side, complaining of the desertion of those who had, early in the session, been urging them to decisive measures.

I waited to-day on Mr. Monroe, to inquire of him in what light I was to represent this measure to His Majesty's Government, whether, as a step preparatory to war, or simply as a municipal measure on the part of the United States. He put the latter construction on it, and deprecated its being considered as a war measure. He even seemed to affect to consider it as an impartial measure towards the two belligerents, and as thereby complying with one of our demands, namely, putting them on an equality. I asked him on this, if the Non-Importation Act was to be superseded by the embargo? but, as this did not depend on the will of the executive, he could give me no decisive answer. He used an expression, which I had some difficulty in comprehending, "that it was the wish of the Government to keep their policy in their own hands;" meaning, as I suppose, that they desired the measure of embargo, in order to be ready either for a declaration of war, if necessary, or for any other situation of affairs that might occur. He told me that the President would have waited for the arrival of the *Hornet* to propose the embargo, but that the news from England by the late papers, up to February 27, just arrived, and my communications, had left them no hope of a change of our measures. He still maintained high language in regard to France, and expressed the President's determination, not only to place restrictions on her trade, if she still refused to do justice to the United States, but even to go still further, assuring me with emphasis, that no amicable professions nor half-way concessions, on the part of France, would now satisfy them.

The newspaper accounts of a great press for seamen in the Thames, for reinforcing His Majesty's fleet on the Halifax station, has been dwelt upon as evidence of a probable intention to commit hostilities on our part, and even Mr. Monroe condescended to use such an argument, as one proof of the expediency of laying the embargo, although it was plain, that any reinforcement sent out to Halifax or Canada, must be for defence, not offence, and that I offered to give him an assurance to that effect, in writing, if he pleased.

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No. 16.

*Mr. Foster to Viscount Castlereagh.—(Extract.)**Washington, April 23, 1812.*

VERY inflammatory paragraphs and letters on the subject of impressments have lately been circulated in the American papers, and as the causes of war become more closely canvassed, that arising out of the practice of impressment seems to be dwelt upon with considerable vehemence.

Lieutenant Green having, after his departure from hence, written to inform me of another of His Majesty's seamen being seduced from the *Gleaner* by the people of Annapolis, I thought myself justified in calling Mr. Monroe's attention a second time to the subject of the irregularities which had taken place at that city, and I sent to him a note, of which the inclosed is a copy, wherein, complaining of the means so frequently pursued of seducing seamen from their duty on board His Majesty's ships, even when engaged in the diplomatic intercourse between the two countries, I have taken occasion to dwell on the attention which has been always shewn by myself and by Vice-Admiral Sawyer, to obtain the discharge of any seaman claimed as a native citizen of the United States, and I have requested him to furnish me with a list of all who could be claimed by this Government as such, in order that I might take every measure in my power to obtain their instantaneous release.

(Inclosure, referred to in No. 16.)

Mr. Foster to Mr. Monroe.

Sir,

Washington, April 15, 1812.

I HAVE the honour to acquaint you, that, in addition to those seamen belonging to His Majesty's hired armed ketch *Gleaner*, mentioned in my representation to you of the 30th ult. who lately received protection in the violation of their engagements, or were seduced from the service of His Majesty by citizens of the United States, I have since been informed by Lieutenant Green, her commander, of another subject of His Majesty, who was also induced to leave His Majesty's vessel, in consequence of encouragement to that effect from the inhabitants of Annapolis.

Such instances, Sir, of improper attempts made on the part of the citizens of the United States to deprive His Majesty's ships, even when employed in the diplomatic intercourse between the two countries, of their seamen, will serve, in conjunction with many others, in my power to quote, and, perhaps, in your remembrance, to shew, that if the United States have reason at times to complain of irregularities in His Majesty's officers, in undesignedly taking their seamen, mistaking them for their own, we have occasionally also reason to make complaint of our seamen, engaged on national service, and known as British subjects, being seduced from their allegiance by citizens of the United States, with circumstances of aggravation and insult highly irritating.

Although, Sir, it has unfortunately not as yet been found practicable by our Governments to agree to such arrangement as might preclude the possibility of events taking place, so calculated to produce vexation on either side, I cannot, however, but hope, that the Government of the United States may find some means to prevent a recurrence of similar irregularities on the part of their citizens; and I assure you, Sir, that, as hitherto, so, at all times, whenever you claim any persons on board any of His Majesty's ships as native American citizens, no exertion shall be wanting, on my part, to procure their

discharge; and I will add, that it would afford me very high satisfaction to be now furnished by you with a list of all those whom you can claim as such, in order that I might use every effort in my power to obtain their immediate release.

You need not, I am sure, Sir, be reminded by me of the prompt attention that has invariably been given by His Majesty's commanding officer on the Halifax station, to the reclamations in similar cases, which I have, since my arrival in the United States, transmitted to him in your name, nor of the readiness with which he has given directions, when practicable, for their being instantaneously discharged.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

No. 17.

Mr. Foster to Viscount Castlereagh.—(Extract.)

Washington, April 24, 1812.

I HAVE strong reason to believe that a majority in Congress, and some of the administration, would desire nothing better, than that our officers should commit some irritating act to rouse the whole country once more in a general cry against us. I hope, however, the repeated requests I have made to Sir George Prevost, and to Vice Admiral Sawyer, to use every means to avoid a collision, and the personal disposition evinced by those officers, will prevent such a catastrophe from happening.

No. 18.

Mr. Foster to Viscount Castlereagh.—(Extract.)

Washington, May 5, 1812.

I yesterday made a visit to Mr. Madison, and afterwards to Mr. Monroe, and as far as I am able to judge from the language of both these gentlemen, it seems to me that it is really decided by the American Government, that they will not recede from the line of conduct they have adopted, but endeavour preferably to produce a war between the two countries.

No. 19.

Mr. Foster to Viscount Castlereagh.—(Extract.)

Washington, May 15, 1812.

Since the date of my last dispatch, the American Government have been using great diligence in spreading intimations of their having come to a final decision to declare war against England if the majority will support them. A merchant of Baltimore, waited some days since on Mr. Gallatin and Mr. Madison, with a request to be allowed to send a vessel in ballast to carry his orders to a ship of his in Brazil, and was refused the permission, on the avowed ground of the present critical state of public affairs.

The idea has also been disseminated, that the war with Great Britain will

only be, as it is termed, a quasi war; and that on account of the advantage which Great Britain derives from the direct trade with this country, and the trade from here with Spain and Portugal, not many more American ships would be captured under its operation, than are now taken. This idea has, I know, been sedulously inculcated by this Government, and it has been as sedulously met by intimations of a contrary tenour on my part, having endeavoured invariably to open the eyes of the American people to the tremendous injuries which they would suffer in the contest. It has, therefore, I hope, not produced much delusion, and this I am inclined the more to think, as within these few days past, another idea has taken its place, the President having given it to be understood, through several persons, that neutral flags will be allowed to come to trade in the American ports, and the surplus produce of the country be thus enabled to find a vent, whatever course affairs may take. The neutral flags meant, were those of Portugal, as appeared on explanation, under which it was understood the American ships might navigate.

Reports continuing to reach me of the American naval officers having received orders, so vaguely worded, as to leave it pretty much at their own discretion to quarrel or not with His Majesty's ships, should the latter approach them near enough the American coast, as to render it a matter of doubt if they were within or without the line of neutral jurisdiction, I thought fit to send a note, (of which a copy is inclosed), to Mr. Monroe, mentioning that I had heard such reports, and asking from him any explanation which he might judge it not improper to communicate to me on the subject, assuring him at the same time that I was convinced His Majesty's commanders would, on their part, endeavour as much as possible to avoid giving offence to those of the United States, pointing out the danger there was of leaving to their own officers, the construction of the precise meaning of what their neutral rights were, which it was said they were ordered to defend.

I have received no answer to this letter.

Some young men in Canada, having, as was reported, fired over the limits, and wounded a person in the United States, the Magistrates of His Majesty's province, acted with great propriety on the occasion. The inclosed testimony, afforded by several inhabitants of the States, and printed in the public prints, contradicts some most calumnious reports which had been propagated relative to proceedings on the frontiers.

(*First Inclosure, referred to in No. 19.*)

Mr. Foster to Mr. Monroe.

SIR,

Washington, May 11, 1812.

I should feel wanting in my duty were I to abstain any longer from noticing the various reports which continue to reach me from several of the United States' seaport towns, relative to the orders under which the officers commanding the United States' frigates, now cruising off the American coasts, are said to act. It is told me that they are such as to leave it in a great degree discretionary with those commanders to enter into collision with His Majesty's ships, should they meet with them in the neighbourhood of the American shores. I assure you, Sir, that no exertion has been wanting on my part to endeavour to prevent any offence being even unintentionally offered by His Majesty's ships, to the United States or to the American commanders; and that knowing the sincere disposition of His Royal Highness the Prince Regent to cultivate the relations of amity with the United States, Vice Admiral Sawyer, the Commander in Chief on the Halifax station, seems equally to have taken every precaution on his part to prevent such recurrence from happening; but if it be the fact, as I have been informed, that from the wording of their instructions, the United States' officers, in being ordered to pro-

fect the neutral rights of America, are left at liberty to construe what those rights consist in, I beg leave to suggest to you, Sir, the very great danger there is, that from not knowing the precise extent of the term "neutral rights," or from over zeal, they may possibly engage in a collision which might perhaps eventually commit the peace of the two countries. I willingly suppose, however, that I may have been misinformed as to the true nature of these instructions, and should be happy to receive from you any explanation that you may not deem it improper to impart to me on the subject, trusting at any rate that you will rightly understand, that in noticing to you the reports above mentioned, I have been only guided by a sincere desire to avert the possibility of any unpleasant occurrence taking place to disturb the peace of our two countries.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Second Inclosure, referred to in No. 19.)

Resolutions of the Inhabitants.

Buffalo, April 25, 1812.

Whereas reports are in circulation, that a number of Indians and white people were embodied on the Canada side of Niagara river, near Newark, for the purpose of making a descent upon the inhabitants on the American side of the said river—

And whereas we have been credibly informed, that Samuel Wigton, the bearer of dispatches to the western part of this state, on his return to Albany, while passing through some of the counties to the eastward, reported, that an actual descent had been made by the Indians from Canada, and that a number of the inhabitants on the American side had been killed.

And whereas, pains have been taken to ascertain the truth of these reports, and upon inquiry, it has been found that the aforesaid reports are groundless—that neither the Indians nor the white inhabitants on the Canada side of the river have, by assembling, or in any other way, evinced an hostile intention or disposition towards the inhabitants on the American side—but, on the contrary, the civil authorities on the Canada side, have, with a promptitude highly honourable, used means to prevent their subjects from committing acts, which might be construed into a menace or disrespect towards the American citizens—Therefore,

Resolved, That this meeting regard with deep regret, the circulation of the aforesaid groundless reports, as having a tendency to excite great alarm among our citizens—to check the progress of improvements—and to prevent emigration to this part of the country.

Resolved, That this meeting do greatly lament that any person should, through want of consideration, or through design, originate groundless reports, so highly prejudicial to our prosperity; and it is a circumstance much to be regretted, that men of influence in this county should give a currency to them, whose local situation afforded an opportunity of acquiring correct information.

Resolved, That the proceedings of this meeting be published.

(Signed)

E. WALDEN, Chairman.

I. DAVIS, Secretary.

No. 20.

*Mr. Foster to Viscount Castlereagh.—(Extract.)**Washington, May 28, 1812.*

I HAVE had two conferences with Mr. Monroe, and a conversation with Mr. Madison on the subject of your Lordship's late dispatches, and I am sorry to say without any effect, the American Government still considering the French Decrees repealed, as far as concerns the United States, and not appearing to wish to give any attention to the Report of the French Minister.

No. 21.

Mr. Foster to Viscount Castlereagh.

MY LORD,

Washington, June 6, 1812.

IN three several conversations which I have had on the 27th and 28th ult. both with the President and with Mr. Monroe, I am sorry to say I could discover nothing to give me a hope of their being disposed to see the conduct of the French Government in its true point of view. The outrageous pretensions and principles, advanced in the French Minister's report, scarcely drew from them a single remark. To my observations on the general application of those principles, and the insulting manner in which the French Government has withdrawn the ground upon which the President claimed of us the revocation of the Orders in Council, in again publishing their Decrees, without even any exception as to the United States, it was replied, that the professions of the Government of France to Mr. Barlow, and his correspondence with the French Ministers, were of a contrary tenor; and when I urged that even Mr. Barlow himself, in his correspondence, as laid before Congress, anxious as he was to conclude a treaty, had allowed that no explanation was given to him relative to the French Minister's report, and that nothing more precise than hitherto had appeared to shew the repeal of the French Decrees, Mr. Madison contented himself with saying that it was useless to discuss the matter further; that no case of a vessel captured under the French Decrees, had occurred since November 1810; and that the projet of a treaty which Mr. Barlow had sent out, contained conclusive evidence that the Decrees were repealed as far as America had a right to expect; which projet it seems was drawn up by Mr. Barlow himself, and has not as yet been agreed to, although Mr. Monroe has declared to me his belief, that the only obstacle to its being formally signed, was the demand made by the United States relative to the spoliation under the Rambouillet Decree.

My conference with Mr. Monroe took place on my communicating to him your Lordship's dispatch to me of April 10, *in extenso*, which having the permission of your Lordship for the purpose, I judged it expedient to do, as from recent experience I found it to be the practice of this Government to receive my letters, and leave me in the expectation of a reply, until it suited their own convenience, weeks or months afterwards, to send me one; otherwise it would have been more satisfactory to me to have written to Mr. Monroe in the first instance, so as to have gotten a written reply from him on the various points in your Lordship's dispatch, particularly as to how far America was disposed to connect the question of a repeal of the Orders in Council, with that of an abandonment of the right of Blockade, as exercised by Great Britain; or of any other of our important maritime rights, now more extensively than ever interwoven with the French demand of a revocation of our Orders.

I soon found that it was the intention of the American cabinet to close the door upon all further discussion.

In the hopes of opening it again, I brought forward the conciliatory propositions contained in your Lordship's succeeding dispatch, expressing the earnest desire of His Royal Highness, while He found himself, to His great regret, under the necessity of continuing the measures of the Orders in Council, forced upon Great Britain, so to exercise His just right of retaliation, as that it might be as little injurious as possible to the trade of the Americans. I observed to Mr. Monroe, that if it was the curtailment of mercantile profit in the trade to the French dominions, which was considered as a grievance by the United States, we were ready to enter into an agreement, so as to share with them that trade now so extensively carried on under French licences; that if America objected to our accepting from France a trade which was denied to her, a neutral power, we were ready to shew, by granting her a fair participation in it, that such acceptance on our part was not a consequence of any spirit of commercial rivalry in Great Britain. I urged, at the same time, the arguments in your Lordship's dispatch, to shew the consistency of the principles on which the trade is now carried on under licences with France, with those principles on which were founded the Orders in Council. Neither Mr. Monroe, however, nor Mr. Madison, to whom I afterwards addressed myself on the same subject, would entertain this friendly proposition. I had some satisfaction, nevertheless, in finding, that they did not express themselves with any jealousy as to the licence trade in question, which they seemed to consider as very naturally arising out of the necessities of both powers: although Mr. Madison intimated, that he did not imagine the Ruler of France would let it be of long continuance.

Finding this proposal to have failed in producing any change upon the American Minister, I next offered to him, in pursuance of your Lordship's instructions, to give up the advantages which Great Britain enjoyed under the licence system altogether, if the United States would return to the relations of amity with Great Britain. I stated this to be a concession which might be considered as of considerable moment, as it would be a sacrifice of profit made for the sole purpose of conciliating the United States; a cession to her national pride, and one which would, at the same time, silence the objections of those who might view the licence system as a partial abandonment of those measures which were to force back the French Government to the ordinary mode of warfare, as practised among civilized nations.

I am sorry to say, that this proposal met with even a worse fate than the former one, Mr. Monroe merely replying, that America could never bargain to give up her right to a direct trade with any country; that it would be no advantage to America that Great Britain should commit a kind of commercial suicide, in renouncing what commerce she could obtain with her enemy's dominions. He did not blame either France or England, he said, for endeavouring to mitigate the evils of war, by trading as much as they could with each other; and he repeated, that it would be of no service to America that they should cease to do so. I found Mr. Madison to make me the same reply, and as if he had been prepared for the proposal on my part. I will remark, however, that a few months back the licence system, as established between France and England, did certainly form a very prominent item in his list of complaints against us, and he has at several periods alluded to it with some asperity in the conversations I have had the honour to have with him.

These propositions having thus failed, my Lord, of producing any good effect, and the French Minister's report being considered as not at all referring to America, while the doctrine of the repeal of the French Decrees having really taken place was still persisted in, and notwithstanding the unsatisfactory intelligence brought from France by the long expected vessel, the *Hornet*, it seemed to be considered by the Government, that there was nothing left for the United States' Government to do but to follow up their hostile measures against Great Britain; and accordingly a manifesto, in the form of a message, was, as I understand, sent to Congress about a little after one

clock on the 1st of June, the day on which it had been, for some time, understood that it would be produced, containing a statement of all the wrongs said to have been suffered by the United States, in which those attributed to Great Britain are placed in the most prominent point of view, while those done by France are said to be cast into the back ground.

The two Houses of Congress have since been in conclave every day; and it is understood that a declaration of war against Great Britain passed the House of Representatives on the 4th of June, while it has met with a temporary suspension in the Senate.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

Viscount Castlereagh,
&c. &c. &c.

No. 22.

Mr. Foster to Viscount Castlereagh.

MY LORD,

Washington, June 8, 1812.

When, on the twenty-seventh ultimo, I communicated to Mr. Monroe your Lordship's dispatch of the 10th of April, he immediately requested of me to let him have a copy of it, as it might at some time or other be laid before Parliament, and it would be but fair that there should be some answer made to it on the part of the United States. To this I objected, as it seemed to me altogether inadmissible that a copy of a dispatch from your Lordship to me, should be permitted to remain at his office, to be, perhaps, quoted from unfairly, and made use of in any way that might suit this Government; while, by declining a renewal of the correspondence between us, I should be deprived of any opportunity whatever for making an explanation. I suffered him, however, at his repeated request, to take the dispatch to the President, in the hopes that he might see in the French Minister's report, inclosed in it, and in the strong and sound arguments of your Lordship, a ground on which we might enter on a new discussion, which should have a more favourable termination than that of last year.

Mr. Monroe promised me that no copy should be taken of it, and I considered the communication as so far confidential, that considering that it was to lead to a discussion between us upon the points contained in it, my notes, and not your Lordship's dispatch, should be referred to. When I saw him again he anew repeated his request to have a copy, and on my declining it, he then suggested to me the expediency of writing him a note, which should contain the substance of the dispatch. To which I gladly assented, willing to consider this suggestion as an overture on his part, for the purpose of renewing the correspondence.

On May the 30th, Mr. Graham, the first clerk in Mr. Monroe's office, waited upon me to ask me how soon I contemplated sending my note in. I told him the note would be a long one, that, nevertheless as the whole argument of it was built on the French Minister's report, I had some idea of merely sending in that report inclosed in a short letter, since Mr. Monroe seemed so anxious to receive it early, and that we might afterwards enter upon the discussion of the question at full length. Mr. Graham, however, observed, that Mr. Monroe had acquainted the President with my intention of writing a note which should contain the whole substance of the dispatch. On this I said, that in such case I should certainly fulfil his wishes, and that I would endeavour to send it to him on Monday morning. I accordingly sent the note inclosed, and your Lordship will perceive, on comparing the two documents, that my note contains all that was essential in your dispatch, though it is true, that in the 25th paragraph, I have left out the express words; "She never engaged to repeal

those Orders as affecting America alone, leaving them in force against other States, upon condition that France would except singly, and specially, America, from the operation of her Decrees." I might have included these expressions, had I not had reason to think, from a conversation with the President, that his intention was, in sending into Congress a message, which he was expected shortly to do, to lay hold of this expression, and leaving out of his observation the whole of the context, to throw this into a most odious light, in order to found upon it a fresh excitement against Great Britain.

I judged it, therefore, advisable to avoid giving him this advantage; but he had already prepared his message on the 1st inst. and sent it on that day to Congress, although my note must have reached him at least two hours before; and that it might have been expected, that respect for His Majesty's Government would have induced a delay in commenting on the supposed contents of my note, until I should have received an answer to it; and his throwing his observations into the form of a message, precluded my being able to enter into any explanation respecting them.

The President perceived the difference in the statement in my note and that which he had made in his message, and I was invited by Mr. Monroe to come to his office on the 3d inst. when he wished to persuade me to alter the passage in question, so as to make it tally with the message.

This, however, I declined doing, as well because of the extraordinary nature of such a proposal, as on the ground that I might have expected before so important a document was read in Congress, which it was generally understood was a laboured exposition of all the causes of dispute with Great Britain, some attention at least should be shown to a communication that I had so recently received; that I did expect the strong points urged in that communication would be answered, and that the United States' Government would explain their sentiments in writing, relative to the new ground on which the French Minister's report had placed the question at issue between the two countries, before they proceeded to cut off all further negotiation, by making their appeal before the national legislature. Mr. Monroe finding I would not accede to his wishes, in altering my note, asked me if I had any objection to his writing me a note, to request me to explain the difference between my letter and your Lordship's dispatch; to which I answered, that he was perfectly at liberty to do as he liked in this respect, reserving to myself to make what reply I pleased.

We then entered on the correspondence of which copies are enclosed, wherein I endeavoured to produce a discussion which should allow me to place in a prominent point of view the most important question at issue as it regards Great Britain; namely, the connection of the demand of a repeal of our Orders in Council with that of an abandonment of several of our most important maritime rights, which two demands have been interwoven together by the French Government, and seem to be equally insisted upon as conditions precedent to the repeal of the French Decrees. In my reply to Mr. Monroe, written in the evening of June 4th, I alluded to the silence of the American Minister on the subject of my letters generally, those dated in March and April, furnishing additional evidence of the continuance of the Decrees, as well as various others, and to the little prospect there appeared of my getting any answer to my last note in its extent, refusing to enter into an explanation of any insulated passage in it, unless the whole were replied to.

This letter seems to have produced some effect, as I to-day obtained an answer, of which a copy is enclosed, to my note of May 30th.

Some degree of harshness is attributed to my second note, declining to give an explanation on an insulated point, without the discussion were made general; but I must say, that although I render justice to the candour and frankness of Mr. Monroe, and to the willingness which I have always found in him to discuss every argument with the greatest temper and good humour at our conferences, it could not escape my observation, that his language was not always a criterion by which to judge of the intentions of the President, as I

have had reason to know in the case of East Florida, nor my recollection, that he originally, on my arrival last summer, wished me to agree to count as unofficial what passed in our conversations; it would therefore have been more than weakness in me to have been withheld by verbal explanation, however friendly, from using the opportunity offered for complaining of his not answering my letters.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

*Viscount Castlereagh,
&c. &c. &c.*

P. S.—I have the honour to enclose a copy of the note which I sent to Mr. Monroe, on seeing the declaration of His Royal Highness the Prince Regent, dated April 21st, in the public prints.

(Signed)

A. J. F.

(First Inclosure, referred to in No. 22.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, May 30th, 1812.

NOTWITHSTANDING the discouraging nature of the conversation which I had the honour to have with you a few days since at your office, and the circumstance of your continued silence in regard to the letters from me, furnishing additional proof of the existence of the French Decrees; nevertheless, there does now appear, such clear and convincing evidence in the report of the French Minister, dated March 10th, of the present year, of those Decrees having not only never been rescinded, but of their being recently extended, and aggravated in the republication of them contained in that instrument, that I cannot but imagine it will seem most important to the President, that it should be communicated to Congress without delay, in the present interesting crisis of their deliberations, and I therefore hasten to fulfil the instructions of my Government, in laying before the Government of the United States, the enclosed *Moniteur* of the 16th of last March, in which is contained that report, as it was made to the Ruler of France, and communicated to the Conservative Senate.

This report confirms, if any thing were wanting to confirm, in the most unequivocal manner, the repeated assertions of Great Britain, that the Berlin and Milan Decrees have never been revoked; however some partial and insidious relaxations of them may have been made in a few instances, as an encouragement to America to adopt a system beneficial to France and injurious to Great Britain, while the condition on which alone it has been declared that those Decrees will ever be revoked, are here explained and amplified, in a manner to leave us no hope of Buonaparte having any disposition to renounce the system of injustice which he has pursued, so as to make it possible for Great Britain to give up the defensive measures she has been obliged to resort to.

I need not remind you, Sir, how often it has been in vain urged, by Great Britain, that a copy of the instrument should be produced, by which the Decrees of Buonaparte were said to be repealed, and how much it has been desired that America should explicitly state, that she did not adopt the conditions on which the repeal was offered.

It is now manifest, that there was never more than a conditional offer of repeal made by France, which we had a right to complain, that America should have asked us to recognize as absolute, and which, if accepted in its extent by America, would only have formed fresh matter of complaint, and a new ground for declining her demands.

America must feel, that it is impossible for Great Britain to rescind her

Orders in Council, while the French Decrees are officially declared to remain in force against all nations, not subscribing to the new maritime code promulgated in those Decrees, and also without something more explicit on the part of America, with regard to her understanding, as to the conditions annexed by France to the repeal of those Decrees; for after what has passed, unless a full and satisfactory explanation be made on both these points, Great Britain cannot relinquish her retaliating system against France, without implying her consent to the admissibility of the conditions in question.

These observations will, I am sure, appear sufficiently obvious to you, Sir, on perusing the inclosed paper.

It will be at once acknowledged, that this paper is a republication of the Berlin and Milan Decrees, in a more aggravated form, accompanied as it is, with an extension of all the obnoxious doctrines which attend those Decrees, influenced by a declaration that Buonaparte has annexed to France every independent state in his neighbourhood, which had eluded them, and that he was proceeding against all other maritime parts of Europe, on the pretence that his system could not be permanent and complete as long as they retained their liberty with regard to it.

The outrageous principle here avowed, connects itself obviously with the proposition, too much countenanced by America, that the continental system of Buonaparte, as far as it operates to the confiscation of neutral property on shore, on the ground of such property being British produce or manufacture, is a mere municipal regulation, which neutral or belligerent nations have no right to resent, because it does not violate any principle of the law of nations. It is unnecessary to recur to the various arguments, by which it has been shewn, that this system does not partake of the character of municipal regulation; but that it is a mere war measure, directed with the most hostile spirit against Great Britain, and in order to extend this system on the principle of municipal regulation, all the rights of the independent neutral nations are to be violated, their territories to be seized, without any other cause of war whatever, but that they may be incorporated with the French nation, and thence, becoming subject to her rights of dominion, receive the continental system as a municipal regulation of France; and thus the mere possibility of non-compliance with the whole of this system, is made the ground for the occupation or invasion, the incorporation or extinction of every state, where the French arms can reach.

Great Britain cannot believe, that America will not feel a just indignation at the full developement of such a system—a system which, indeed, the Ruler of France has partially opened before, and has in the instances of the Hanseatic Towns, of Portugal, and other countries, carried into complete execution, but which he has never completely unfolded in all its extent until the present moment; and in what an insulting and preposterous shape does he now attempt to bring forward, and promulgate this code, which he is to force upon all nations? He assumes the treaty of Utrecht to be in force, and to be a law binding upon all states; because it suits his convenience at this moment, when the navy of France is driven from the ocean, to receive the doctrine of free ships making free goods; he has recourse to a treaty no longer in force, in which such a stipulation existed. A treaty which, by his own express refusal at Amiens, to renew any of the ancient treaties, was not then revived, even as binding upon Great Britain and France, between whom alone, as parties to it, and only while they were at peace with each other, could it ever have had any legal effect; yet, even this treaty is too narrow a basis for his present pretensions, since he cannot find in it his rule for limiting maritime blockades to fortresses actually invested, besieged, and likely to be taken; no provision of any description having been made in that treaty, either for defining or regulating blockades.

Surely at such an instant, America will not urge Great Britain to abandon or to soften any precautionary, any retaliatory rights against such a power. The British Government not only feels itself imperiously bound to defend

them, as they respect Great Britain, with all vigour, but to call upon every nation to resist such exorbitant pretensions.

If Great Britain, at such a moment, were to relax her Orders in Council against France, would not all other nations have reason to complain, that the common cause was abandoned?

America must feel that the Ruler of France is not acting, as indeed he has never acted, with any view of establishing principles of real freedom with respect to navigation, but is merely endeavouring to cloak his determination, if possible, to ruin Great Britain by novel demands, and rejected theories of maritime law; and America must see that his object is to exclude British commerce from every coast and port of the continent, and that in pursuit of this object, trampling on the rights of independent states, he insultingly proclaims his determination to effect it by direct invasion of those independent states, which he, as insultingly terms a *guarantee*; thus making the most solemn and sacred term in the law of nations, synonymous with usurpation of territory, and extinction of independence. America must see, that as all the states hitherto in his power have been seized on to *guarantee* his system, he is now proceeding to destroy whatever remains of independence in other neutral states, to make that *guarantee* complete. From his want of power to pass the Atlantic with his armies (a want of power for which the United States are indebted to the naval superiority of Great Britain) his system of a *guaranteeing* force may fail as to America, but as he cannot hope to shut the American ports against Great Britain by occupancy and invasion, he hopes to effect his purpose by management and fraud, and to accomplish that by insidious relaxation, which he cannot accomplish by power.

Great Britain, he feels, is only to be ruined, by excluding her from every port in the world; he hopes therefore to shut every port in Europe by force, and every port in America by management; he pretends to conciliate America by applause of her conduct, and a partial relaxation of his system in her favour: He accompanies the promise of repealing his Decrees with conditions which he trusts America will not disavow, and which he knows Great Britain must reject; knowing at the same time that the relaxation of his Decrees will be of little use to America, without a corresponding relaxation by Great Britain, he throws every obstacle against concession to America by Great Britain, making her perseverance in her retaliatory system, more than ever essential to her honour and existence; and surely it will not escape the notice, or fail to excite the indignation of the American Government, that the Ruler of France, by taking the new ground now assumed, has retracted the concession which America supposed him to have made; he has inconsistently and contemptuously withdrawn from her the ground upon which she has taken a hostile attitude against Great Britain, since the repeal of our Orders in Council, and even the renunciation of our rights of blockade, would no longer suffice to obtain a repeal of the Berlin and Milan Decrees.

His Majesty's Government cannot but hope that America, considering all the extravagant pretensions set forth by the Ruler of France, in the French Minister's report, and at the same time, the resolution to march his armies into all states, and into all ports in which the English flag is admitted, will acknowledge that this doctrine and resolution, constitute a complete annihilation of neutrality, and that she is bound as a neutral nation to disavow and resist them. Every state that acquiesces in this report must act upon the principle, that neutral and enemy are to be considered henceforward as the same, in the language of the French law of nations, and Great Britain has a right to consider, that every nation who refuses to admit her flag upon the principle assumed, admits and recognises the doctrine of the report.

I will not now trouble you, Sir, with many observations relative to the blockade of May 1806, as the legality of that blockade, assuming the blockading force to have been sufficient to enforce it, has latterly not been questioned by you.

I will merely remark, that it was impossible Great Britain should receive, otherwise than with the utmost jealousy, the unexpected demand made by

America for the repeal of the blockade as of the Orders in Council, when it appeared to be made subsequent to, if not in consequence of, one of the conditions in Buonaparte's pretended repeal of his Decrees, which condition was our renouncing what he calls "our new principles of blockade." That the demand on the part of America was additional and new, is sufficiently proved by a reference to the overture of Mr. Pinkney, as well as from the terms on which Mr. Eschine had arranged the dispute with America relative to the Orders in Council. In that arrangement nothing was brought forward with regard to this blockade: America would have been contented at that time without any reference to it. It certainly is not more a grievance or an injustice now, than it was then; why then is the renunciation of that blockade insisted upon now, if it was not necessary to insist upon it then? It is difficult to find any answer but by reference to subsequent communications between France and America, and a disposition in America to countenance France in requiring the disavowal of this blockade, and the principles upon which it rested as the condition, *sine quâ non*, of the repeal of the Berlin and Milan Decrees. It seems to have become an object with America, only because it was prescribed as a condition by France.

On this blockade, and the principles and rights upon which it was founded, Buonaparte appears to rest the justification of all his measures for abolishing neutrality, and for the invasion of every state, which is not ready with him to wage a war of extermination against the commerce of Great Britain.

America, therefore, no doubt, saw the necessity of demanding its renunciation, but she will now see that it is in reality vain, either for America, or for Great Britain to expect an actual repeal of the French Decrees, until Great Britain renounces first, the basis, viz. the blockade of 1806, on which Buonaparte has been pleased to found them, next the right of retaliation, as subsequently acted upon in the Orders in Council; further, till she is ready to receive the treaty of Utrecht, interpreted and applied by the French Minister's report, as the universal law of nations; and finally, till she abjures all the principles of maritime law, which support her established rights, now more than ever essential to her existence as a nation.

Great Britain feels confident that America never can maintain, or ultimately sanction such pretensions, and His Royal Highness the Prince Regent entertains the strongest hope, that this last proceeding of France will strip her measures of every remnant of disguise, and that America, in justice to what she owes to the law of nations, and her own honour as a neutral state, will instantly withdraw her countenance from the outrageous system of the French Government, and cease to support by hostile measures against British commerce, the enormous fabric of usurpation and tyranny which France has endeavoured to exhibit to the world, as the law of nations.

America cannot now contend that the Orders in Council, exceed in spirit of retaliation, what is demanded by the Decrees, the principles, or the usurpations of Buonaparte. The United States' Government must at last be convinced that the partial relaxations of those Decrees in favour of America have been insidiously adopted by France, for the mere purpose of inducing her to close her ports against Great Britain, which France cannot effect herself by force; and she must admit, that if Great Britain were now to repeal her Orders in Council against France, it would be gratuitously allowing to France, the commerce of America, and all the benefits derivable from her flag, as an additional instrument for the annoyance of Great Britain, and that, at a moment when every state is threatened with destruction, or really destroyed, for merely supporting their own rights to trade with Great Britain.

I am commanded, Sir, to express, on the part of His Royal Highness the Prince Regent, that while His Royal Highness entertains the most sincere desire to conciliate America, He yet can never concede, that the blockade of May 1806, could justly be made the foundation, as it avowedly has been, for the Decrees of Buonaparte; and further, that the British Government must ever consider the principles on which that blockade rested, (accompanied as it was by an adequate blockading force) to have been strictly consonant to the

established law of nations, and a legitimate instance of the practice which it recognises.

Secondly, that Great Britain must continue to reject the other spurious doctrines promulgated by France in the Duke of Bassano's report, as binding upon all nations. She cannot admit, as a true declaration of public law, that free ships make free goods, nor the converse of that proposition, that enemy's ships destroy the character of neutral property in the cargo. She cannot consent, by the adoption of such a principle, to deliver absolutely the commerce of France from the pressure of the naval power of Great Britain, and by the abuse of the neutral flag, to allow her enemy to obtain, without the expense of sustaining a navy, for the trade and property of French subjects, a degree of freedom and security which even the commerce of her own subjects cannot find under the protection of the British navy.

She cannot admit as a principle of public law, that a maritime blockade can alone be legally applied to fortresses actually invested by land as well as by sea, which is the plain meaning or consequence of the French Minister's definition.

She cannot admit as a principle of public law, that arms and military stores are alone contraband of war, and that ship timber and naval stores are excluded from that description. Neither can she admit, without retaliation, that the mere fact of commercial intercourse with British ports and subjects should be made a crime in all nations, and that the armies and decrees of France, should be directed to enforce a principle so new and unheard of in war.

Great Britain feels that to relinquish her just measures of self-defence and retaliation would be to surrender the best means of her own preservation and rights, and with them the rights of other nations, so long as France maintains and acts upon such principles.

I am commanded to represent to the Government of America, that Great Britain feels herself entitled to expect from them an unreserved and candid disclaimer of the right of France to impose on her and on the world, the maritime code which has been thus promulgated, and to the penalties of which America is herself declared to be liable, if she fails to submit herself to its exactions. America cannot for her own character any longer temporise on this subject, or delay coming to a distinct explanation with France as well as with Great Britain, if she wishes to clear herself from the imputation of being an abettor of such injustice.

America, as the case now stands, has not a pretence for claiming from Great Britain a repeal of her Orders in Council. She must recollect that the British Government never for a moment countenanced the idea, that the repeal of those Orders could depend upon any partial or conditional repeal of the Decrees of France. What she always avowed, was, her readiness to rescind her Orders, as soon as France rescinded absolutely and unconditionally her Decrees. She could not enter into any other engagement without the grossest injustice to her allies as well as to neutral nations in general, much less could she do so if any special exception was to be granted by France upon conditions utterly subversive of the most important and indisputable maritime rights of the British empire.

America has now a proceeding forced upon her by France, on which, without surrendering any of those principles which she may deem it necessary for her own honour and security to maintain, she may separate herself from the violence and injustice of the enemy: she owes not only to herself to do so, but she is entitled to resent that course of conduct on the part of France, which is the only impediment to her obtaining what she desires at the hands of Great Britain; namely, the repeal of the Orders in Council.

I am authorised to renew to the American Government, the assurance of His Royal Highness's sincere desire to meet the wishes of America upon this point, whenever the conduct of the enemy will justify Him in doing so.

Whilst America could persuade herself, however erroneously, that the Berlin and Milan Decrees had been actually and totally repealed, and that the execution of the engagement made on that condition by the British Govern-

ment had been declined, she might deem it justifiable, as a consequence of such a persuasion, to treat the interest and commerce of France with preference and friendship, and those of Great Britain with hostility; but this delusion is at an end. America now finds the French Decrees not only in full force, but pointed with augmented hostility against Great Britain. Will the Government of the United States declare, that the measure now taken by France, is that repeal of the obnoxious Decrees which America expected would lead to the repeal of the British Orders in Council? Will the American Government, unless upon the principle of denying our retaliatory right of blockade, under any imaginable circumstances, declare, that there is at this moment a ground upon which the repeal of our Orders in Council can be pressed upon us; or that the repeal could now be warranted upon any other ground than an express abdication of the right itself, which America well knows, whatever may be our desire to conciliate, is a concession which the British Government cannot, and will not make.

If this be true, for what purpose can she persevere in her hostile attitude towards Great Britain, and her friendly one towards France? Does the American Government really wish to aid France in her attempt to subjugate Great Britain? Does America expect that Great Britain, contending against France, will at the instance of America disarm herself and submit to the merey of her opponent? If both these questions are answered in the negative, upon what ground can she for a moment longer continue her hostile measures against us? The American Non-Intercourse Act was framed upon the express principle of continuing in force against the power, whether France or Great Britain, that should refuse to repeal its respective laws, of which America thought herself entitled to complain. But the repeal contemplated by that act was a *bond fide* repeal, and not a repeal upon an inadmissible condition, and America can never be justified in continuing to resent against us that failure of relief which is alone attributable to the insidious policy of the enemy, that has, for the purpose of embarrassing the discussion, interwoven the question of the Decrees with the exaction of a relinquishment of almost the whole system of our maritime law.

It is not for the British Government to dictate to that of America, what ought to be the measure of its just indignation against the Ruler of France for having originated and persevered in a system of lawless violence, to the subversion of neutral rights, which being necessarily retaliated by Great Britain, has exposed America with other neutral states, to losses which the British Government has never ceased most sincerely to deplore. America must judge for herself, how much the original injustice of France towards her has been aggravated by the fraudulent professions of relinquishing her Decrees, by the steps adopted to mislead America in order to embark her in measures, which, we trust, she never would have taken if she could have foreseen what has now happened, and ultimately by threatening America with her vengeance, as a "denationalized" state, if she does not submit to be the instrument of her designs against Great Britain.

These are considerations for America to weigh; but what we are entitled to claim at her hands, as an act, not less of policy than justice, is, that she should cease to treat Great Britain as an enemy. The Prince Regent does not desire retrospect, when the interests of two countries so naturally connected by innumerable ties are concerned. It is more consonant to His Royal Highness's sentiments, to contribute to the restoration of harmony and friendly intercourse than to inquire why it has been interrupted. Feeling that nothing has been omitted on His part to relieve America from the inconveniences to which a novel system of warfare on the part of France, unfortunately continues to expose her, and that the present unfriendly relations, which, to their mutual prejudice, subsist between the two countries, have grown out of a misconception on the part of America, both of the conduct and purpose of France; His Royal Highness considers Himself entitled to call upon America to resume her relations of amity with Great Britain. In doing so, she will best provide for the interests of her own people; and I am

authorised to assure the American Government, that although His Royal Highness, acting in the name and on the behalf of His Majesty, can never suffer the fundamental maxims of the British monarchy, in matters of maritime right, as consonant to the recognised law of nations, to be prejudiced in his hands, His Royal Highness will be ready at all times to concert with America as to their exercise; and so to regulate their application as to combine, as far as may be, the interests of America, with the object of effectually retaliating upon France the measure of her own injustice.

I will now terminate this letter by assuring you, Sir, as I can with perfect truth, that the most cordial and sincere desire, animates the councils of Great Britain to conciliate America, as far as may be consistent with the principles upon which the preservation of the power and independence of the British monarchy is held essentially to depend, and which cannot be abandoned without throwing her, helpless and disarmed, into the presence of her adversary.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(For paper referred to in the preceding, see Inclosure in No. 3.)

(Second Inclosure, referred to in No. 22.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, June 3d, 1812.

IN the letter of May 30th, which I have had the honour to receive from you on the 1st of June, I perceive a difference in a particular passage of it, from a passage on the same subject, in the dispatch from Lord Castlereagh to you, which you were so good as to communicate to me entire, as appears from the tenor of the letter, to have been intended by your Government. The passage in your letter, to which I allude, is as follows:—"America, as the case now stands, has not a pretext for claiming from Great Britain, a repeal of her Orders in Council. She must recollect, that the British Government never for a moment countenanced the idea, that the repeal of those Orders could depend upon any partial or conditional repeal of the Decrees of France. What she always avowed, was, her readiness to rescind her Orders in Council, as soon as France rescinded absolutely and unconditionally her Decrees. She could not enter into any other engagement, without the grossest injustice to her allies, as well as to neutral nations in general, much less could she do so if any special exception was to be granted by France, upon conditions utterly subversive of the most important and indisputable maritime rights of the British Empire."

According to the tenor of the dispatch of Lord Castlereagh to you, my recollection is, that in stating the condition on which the Orders in Council were to be repealed, in relation to the United States, it was specified, that the Decrees of Berlin and Milan must not be repealed, singly and specially in relation to the United States, but be repealed also as to all other neutral nations, and that in no less extent of a repeal of the Decrees, had the British Government ever pledged itself to repeal the Orders in Council.

However susceptible the passage in your letter may be of a construction reconcilable with the import of the dispatch from Lord Castlereagh, yet as a similar phraseology of your Government, on other occasions, has had a construction less extensive; and as it is important in every respect, that there should be no misunderstanding or possibility of error, you will excuse me

for requesting that you will have the goodness to inform me, whether in any circumstance, my recollection of the import of this passage in Lord Castlereagh's dispatch is inaccurate.

I have the honour to be, &c.

(Signed) JAMES MONROE.

A. J. Foster, Esq.

(Third Inclosure, referred to in No. 22.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, June 3d, 1812.

I HAVE received your letter of to-day, requesting an explanation relative to the supposed meaning of a passage, in a dispatch from Lord Castlereagh to me, that I had the honour to communicate to you confidentially, and I beg leave to state to you, that while I conceive it to be very difficult to give an explanation upon a single point, in a note of considerable length, without referring to the whole context, and also believe it to be altogether irregular to enter upon a discussion respecting a communication so entirely informal, yet I have no hesitation in assuring you, that my note of May 30th, contains the whole substance of the dispatch alluded to.

In the correspondence that will probably take place between us, in consequence of the new ground upon which the French Minister's report has placed the question at issue between our two countries, I shall be extremely happy to enter at full length upon any topic, which you may wish particularly to discuss.

I have the honour to be, &c.

(Signed) A. J. FOSTER.

The Hon. James Monroe.

(Fourth Inclosure, referred to in No. 22.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, June 4th, 1812.

I HAVE had the honour to receive your letter of yesterday, in reply to mine of the same date.

As the dispatch of Lord Castlereagh was communicated by you to me, in my official character, to be shewn to the President, and was shewn to him accordingly, and as the dispatch itself expressly authorised such a communication to this Government. I cannot conceive in what sense such a proceeding could be considered confidential, or how it could be understood that the Executive was to receive one communication for itself, and transmit to Congress another, liable in the opinion of the Executive, to a different or doubtful construction. I cannot but persuade myself, Sir, that on a reconsideration of the subject, you will perceive, that there can be no impropriety in a compliance with the request contained in my letter of yesterday. Should I be mistaken in this expectation, I flatter myself that you will see the propriety of freeing your own communication from all ambiguity and liability to misconstruction. With a view to this, permit me to inquire, whether the passage in your letter, stating the condition on which your Government always avowed its readiness to rescind the Orders in Council, namely, as soon as France rescinded absolutely and unconditionally her Decrees, includes in its meaning, that the

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Decrees must be rescinded in relation to other neutral nations, as well as to the United States, previous to a repeal of the Orders in Council, in relation to the United States.

I have the honour to be &c.

(Signed)

JAMES MONROE.

A. J. Foster, Esq.

(Fifth Inclosure, referred to in No. 22.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, June 4th, 1812.

I MUST rely upon your candour to feel for the embarrassment into which your note of this day has thrown me.

Willing to comply with the request contained in it, I yet cannot but be sensible, that in making any portion of a dispatch from His Majesty's Secretary of State to me, the subject of a correspondence between us, I should not be justified to my own Government. I believe there is no example of a correspondence of such a nature, and I should be very loth to establish the precedent.

When I had the honour to make the communication of Lord Castlereagh's dispatch to you, in consequence of its being left to my own discretion to do so, I did it because I had reason to think, from the number of my letters which then remained unanswered at your office, such a communication, if made through a note, might have shared the fate of the rest. You will recollect, that it was at your own request, that I acceded to the dispatch being communicated to the President, and that it was also at your instance, as being the only regular way in which the subject could come before the American Government, that I determined to write to you a note founded upon it. You were aware, at the latter end of last week, that such was my determination, which I repeated to you through Mr. Graham, who called upon me on the 30th ultimo, to ask me when I contemplated sending it to your office. The note must have reached you, and have been read, before any message could have been sent from the Executive to Congress.

I cannot, Sir, consider my note as liable to the charge of ambiguity, which you now impute to it. The abandonment of our most important maritime rights, is more extensively than ever connected by France, with the demand of a repeal of our Orders in Council, and while you are entirely silent as to how far America concurs with her on this point of vital interest to Great Britain, without even a prospect of a reply from you to our just complaints, as expressed in my note on the coincidence of the attitude taken by America with the hostile system of France; I cannot but be aware of the difficulties to which I should expose myself in entering into an explanation on any insulated passage in it. I might, perhaps, by continued silence on your part, never afterwards have an opportunity of making further explanations, and you are well aware how frequently points taken unconnected with what precedes or follows them, are liable to misconstruction.

But, Sir, a reason paramount to every other for my not committing myself to an explanation with you on any single topic, without the discussion between us were to be continued, is the publication of the highly important declaration of His Royal Highness the Prince Regent, to which I had the honour to allude in my note to you of this morning. You will there find stated, in as explicit and authentic a manner as language can convey, the grounds upon which His Majesty's Orders in Council will be revoked. I cannot, it is true, as yet, refer you officially to this document, but I may now be in the expectation of receiving it in a formal shape within a very few days, and together with it every explanation possible which you may require.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Sixth Inclosure, referred to in No. 22.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, June 6th, 1812.

I HAVE had the honour to receive your letter of the 4th instant. The receipt of that of May 30th, has already been acknowledged.

As these letters relate to the same subject, the Orders in Council, I shall take both into view in this reply.

I am not disposed to make any unnecessary difficulty, on account of the informality of the document alluded to in the last letter. If the Declaration of the Prince Regent, was such as to afford the satisfaction desired, it would be received, in any form entitled to credit, with great interest, as a token of just and friendly sentiments in your Government towards the United States. But nothing is seen in that Act, of the character which you impute to it. Without removing a single objection to the principle on which the Orders in Council were issued, and have been maintained; it affords a complete justification of the demand heretofore made on your Government, for their repeal.

The British Government has complained that the United States demanded the repeal of the Orders in Council on a conditional repeal of the French Decrees, although the French condition required nothing of Great Britain which she ought not to have consented to; and was, moreover, a condition subsequent, and not precedent; and it now proposes to repeal the Orders in Council conditionally also, with this difference, that the condition on which their repeal is to be made, is a condition precedent and not subsequent, and is likewise one which Great Britain has no right to claim.

This condition requires that the French Decrees shall be absolutely and unconditionally repealed; that is, that they shall be repealed according to explanations given, not only as they related to the United States, but as to all other neutral nations; and also, as they prohibited a commerce in British manufactures, with the enemies of Great Britain.

'So far as the French Decrees violated the neutral commerce of the United States, we had a right to demand a repeal of them. To that extent we did demand their repeal, and obtained it. The repeal was declared by an authentic and formal act of the French Government, and communicated to this Government by the Minister Plenipotentiary of the United States at Paris, and to the British Government by their Minister Plenipotentiary at London; and has, moreover, been officially published within the United States. The authenticity of the repeal was placed beyond all controversy, and the official manner in which it was communicated to your Government ought to have been satisfactory to it. A general repeal of the French Decrees in favour of all neutral nations, and of such parts of them as prohibited a trade with France and the countries under her controul, in British manufactures, the United States have not demanded, because they had no right to demand it.

The United States have required of Great Britain no more than they required of France; namely, that her unlawful edicts should be repealed so far as they related to us. To a compliance with this demand, your Government has prescribed conditions, the mere recital of which is sufficient to shew their injustice. The United States can never suffer their rights to be violated by Great Britain, because the commerce of her enemy is not regulated to suit her interest and policy.

If the Duke of Bassano's report to the Conservative Senate of France, published in a French newspaper, be sufficient evidence that the French Decrees are now in force, it is not perceived on what ground the high evidence which has been afforded of their repeal could have been resisted.

It is further made a condition of the proposed repeal, by the Declaration of the Prince Regent, that it shall take effect at a future uncertain day, and that the Orders in Council should be again in force, on a contingency, of which the British Government is to be the sole judge. If this were a ground on which the United States could call upon France to repeal her Decrees, in case they were still in force as to them, surely the French repeal, to take effect on a future specified day, and whose revival was not provided for on any contingency whatever, was a ground on which their call on Great Britain to repeal her Orders in Council in respect to the United States, ought not to have been resisted.

In reply to your insinuation, that the demand made on your Government to repeal its edicts, which violate the neutral rights of the United States, is made in concert with France, to obtain from Great Britain an abandonment of her maritime rights; it is sufficient to refer you to documents which have been long before the public, and particularly to the letter of Mr. Pinkney to the Marquis Wellesley, of January 14th 1811, protesting, in the most pointed manner, against looking to any other source for the opinions and principles of the United States, than to the United States themselves. Let me repeat, with respect to the Orders in Council, that all we demand is, that they cease to violate the neutral rights of the United States, which they have long violated, and still violate on the high seas. Should they be continued as to France in any form which may not violate these rights, or as to any other neutral nation to which they may be applicable, it would be for such nation, and not for the United States, to contend against them.

The report of the French Minister, on which this declaration of your Government is founded, affords no proof that the French Government intended by it to violate its engagement to the United States, as to the repeal of the Decrees. It evidently refers to the continental system, by the means relied on to enforce it. The armies of France can be of no avail either in the support or violation of maritime rights. This construction is the more justifiable from the consideration that it is supported by corresponding acts of the French Government, continued from the time of the repeal, and by communications to the Minister Plenipotentiary of the United States at Paris, to the date of that report.

I beg you, Sir, to be assured that it is painful to me, to have imposed the least embarrassment on you, by the correspondence on the difference between the tenor of Lord Castlereagh's letter to you, and yours founded on it to me. I continue to persuade myself, however, that you will become sensible, that with a knowledge of the extent given by your Government to the conditions on which alone its Orders will be repealed, and that this extent was always contemplated by your Government, it was impossible for the President to be inattentive to the fact, or to withhold it from the legislative branch of the Government; I have to add, that had it been proper for him so to have done, the late hour at which your note was received, not till the noon of the 1st instant, was not in time to be considered in relation to the message sent to Congress on that day.

I have the honour to be, &c.

(Signed)

JAMES MONROE.

A. J. Foster, Esq.

(Seventh Inclosure, referred to in No. 22.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, June 4, 1812.

SINCE I had the honour of seeing you at your office yesterday, I have perceived an article in the public prints, stated to be extracted from an English newspaper, and purporting to be an official Declaration of His Royal Highness the Prince Regent, that the Orders in Council will be, and are absolutely revoked, from the period when the Berlin and Milan Decrees, shall, by some authentic act of the French Government, publicly promulgated, be expressly and unconditionally repealed. A considerable time has now elapsed, since by order of my Government, I had the honour of urging to you the expediency of procuring such an authentic act from the French Government; and, in all probability, the above Declaration may have been issued in the confident expectation that the Government of the United States would have been able to produce it ere this.

At all events, Sir, considering the important nature of the above-mentioned article, and the probability that I shall have soon to be the organ of some official communication to the American Government in relation to it, I cannot but trust that no measure will meanwhile be adopted by Congress which would defeat the endeavour of procuring a complete reconciliation between our two countries.

Should any embarrassments arise in consequence of the Declaration on the subject of the proposed revocation of the Orders in Council above alluded to, resting at present upon a mere statement in the newspapers, it will no doubt occur to your recollection, that on the enactment of those Orders a measure was taken by Congress for the purpose of meeting them, when they were as yet known but through the public prints.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. J. Monroe.

No. 23.

Mr. Foster to Viscount Castlereagh.—Extract.

Washington, June 9th, 1812.

THE National Intelligencer has been of late filled with the most horrible accounts of Indian massacres, which were all attributed as a matter of course to British influence, and the necessity of destroying the North West Company was in the mouths of all the western gentlemen.

I have the honour to transmit to your Lordship copies of my two notes, and their inclosures relative to this subject.

I also transmit to your Lordship a copy of Mr. Monroe's note of May 30, in answer to mine of April 15, respecting some deserters from His Majesty's ketch Gleaner, and promising to send me a list of impressed American seamen, which he says amount to several thousands; and a copy of the note which I wrote in obedience to your Lordship's instructions, relative to British seamen detained on board of American ships of war, in which I forwarded copies of the documents on this subject, which I had received from your Lordship. Mr. Monroe has answered this note very much at length, of which a copy is inclosed.

(First Inclosure referred to in No. 23.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, June 6th, 1812.

It is extremely painful for me to find, that notwithstanding the assurances which I had the honour to make to you on the authority of communications from His Majesty's Captain General in Canada, that His Majesty's officers had not only had no hand in urging the Indian tribes to the late atrocities committed on the frontiers of the United States, but had even endeavoured, in the true spirit of friendly neighbourhood, to restrain them as far as lay in their power: such reports still continue to be circulated with revived industry, and have in a great degree, even been countenanced by statements which were recently made in an address from a Governor of one of the United States, to the citizens of that State.

To set this question at rest, I beg leave, Sir, to transmit to you the enclosed copies of a letter from the late Governor of Canada, to His Majesty's Secretary of State for the War Department, and the answer of Lord Liverpool, which have recently been received by me through Lord Castlereagh's office, and from which you will perceive that His Majesty's Ministers had not only expressed their decided approbation of the conduct of the Government of Canada, in using whatever influence they might possess over the Indians, to dissuade them from committing hostilities on the citizens of the United States, but also, had especially directed that those exertions should be continued.

While I assure you, Sir, very frankly, that I do not believe such evidence was necessary to convince the American Government of the erroneous nature of the above-mentioned reports, I yet beg to request that this letter and its inclosures may as early as possible be laid before the President.

I also beg leave to add, that it is really a serious inconvenience, thus to find it necessary continually to furnish fresh evidence, in order to oppose rumours, which, though unsupported by the shadow of a document, or any other authority whatever, than mere hearsay, do yet derive a consequence from the circulation given to them under the official sanction of a State Government.

I have thought it necessary to be thus explicit on this subject, on account of the odious nature of the reports in question: dreadful and horrible as they are, they would at any time suffice to excite the most violent irritation through a country, but they surely ought not to be made use of without the most clear and convincing proofs to constitute their veracity.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. J. Monroe.

(For Papers referred to in First Inclosure of No. 23. See Inclosures in No. 5.)

(Second Inclosure, referred to in No. 23.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, June 8th, 1812.

SINCE I had the honour of writing to you yesterday, I have received some additional papers relating to the subject mentioned in my letter, which I transmit to you inclosed. They consist of a letter from Sir James Craig to

Lord Liverpool, inclosing the extract of a letter from Lieutenant Governor Gore, and of the instructions which, in consequence of Sir James Craig's letter, he had given to the Deputy Superintendant of Indian Affairs, to exert himself in restraining the Indians from committing any act of hostility against the citizens of the United States.

Allow me to request that these papers may without loss of time be communicated to the President.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. J. Monroe.

(For Papers referred to in Second Inclosure of No. 23. See Inclosures in No. 5.)

(Third Inclosure, referred to in No. 23.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, May 30th, 1812

HAVING had the honour to confer with you soon after the date of your letter of April 15, relative to a deserter from His Britannic Majesty's ship of war the *Gleaner*, it is unnecessary to repeat here the remarks which I then made on that subject. I shall only observe, that none of the men who deserted from that vessel had any encouragement to do it, from the constituted authorities of the United States, or of the State of Maryland. If they received such encouragement from any of our citizens, it is a cause of regret; but it is an act not cognizable by our laws, any more than it is presumed to be by those of Great Britain.

It is proper to state that a similar desertion took place last year, from an American frigate in an English port, in which no redress was afforded. It was the more remarkable, as the deserter took refuge on board a British ship of war, the commander of which refused to surrender him, on being requested to do so.

Your proffered exertions to procure the discharge of native American citizens, from on board British ships of war, of which you desire a list, has not escaped attention.

It is impossible for the United States to discriminate between their native and naturalized citizens, nor ought your Government to expect it, as it makes no such discrimination itself. There is in this office a list of several thousand American seamen who have been impressed into the British service, for whose release applications have, from time to time, been already made. Of this list a copy shall be forwarded to you, to take advantage of any good offices you may be able to render.

I have, &c.

(Signed)

JAMES MONROE.

A. J. Foster, Esq.

(Fourth Inclosure, referred to in No. 23.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, June 1, 1812.

I HAVE the honour to acknowledge the receipt of your letter of the 30th ultimo, in reply to my note of April 15, relating to a seaman who had been encouraged to desert from His Majesty's ship *Gleaner*, by certain of the inhabitants of the city of Annapolis, and containing an offer, which I shall always be very happy to repeat, of using my best exertions to procure the discharge of such seamen as have been impressed on board His Majesty's ships, and can be legally claimed by the Government of the United States.

The circumstances which attended the instances mentioned in my former letter of April 15, when several seamen of the same vessel (the *Gleaner*), were under the very eyes of their officer, and, in a manner exceedingly insulting to his feelings, assailed by the endeavours of the same people to engage them to desert, is not adverted to in your letter; but, I suppose, I am to conclude from the tenor of it, that no remedy can be applied in such cases by the constituted authorities of the country, which is very, very much to be regretted, as it leaves the commanders of ships of war, who may have dispatches to convey on shore in American ports, continually exposed to have their boat's crews seduced away from them with impunity, and tends to shew more than ever the disagreeable necessity under which they are, of endeavouring to recover them from on board of the merchant ships, in which such seamen afterwards engage themselves.

I do not pretend, Sir, to justify the captain of the British ship of war, who refused to deliver the American deserter mentioned in your letter, not knowing the circumstances under which he acted.

It will no doubt, occur to you, however, that if you could state a single instance where crowds have collected round an American officer on his landing in England, with a view to insult him, and entice his men to abandon him, as is too often the practice in the United States, such an instance would be more directly in point.

I have now, Sir, the honour to lay before you, by order of His Royal Highness the Prince Regent, the enclosed papers relating to English seamen, who have been detained against their will on board of certain ships of war of the United States, which have of late visited Great Britain, and to express His Royal Highness's sincere belief, that these several sources of complaint have originated without the concurrence or participation of a state, with which he is so anxious to preserve an amicable intercourse, as well as his conviction that the Government of America has only to be informed of the fact, to take prompt and satisfactory measures for the correction of the practice.

The American Government will perceive from this friendly communication, that it is not on this side of the water alone, that the inconvenience necessarily resulting from the similarity of habits, language, and manners, between the inhabitants of the two countries, is productive of subjects of complaint and regret. These are, however, at the same time, natural and strong inducements for a conformity of interests, and most particularly for a readiness to give and receive mutual explanations upon all subjects of difference.

I have it in charge to repeat to you, Sir, for the information of your Government, that the Government of His Royal Highness the Prince Regent, will continue to give the most positive orders against the detention of American citizens on board His Majesty's ships, and that no difficulties beyond what are requisite for clearly ascertaining the national character of individuals, whose cases are brought before the Lords Commissioners of the Admiralty, will be interposed to prevent or delay their immediate discharge.

The Earl of Liverpool, while he held the office of His Majesty's Secretary of State for Foreign Affairs, ad interim, was commanded to make known the

case of William Bowman, stated by the affidavit of his wife, to be forcibly detained on board the United States ship *Hornet*. The departure of this vessel, precluded Mr. Russell from making the necessary representation to the commanding officer of the *Hornet*. As, however, Mr. Russell will have probably stated the circumstances of the case to his Government, I am in hopes that there will be no difficulty in obtaining his release.

Of the papers enclosed, those marked No. 1, consist of a copy of a letter from Admiral Sir Roger Curtis, Commander-in-Chief at Portsmouth, to Mr. Croker, Secretary to the Admiralty, enclosing the deposition upon oath of Charles Davis, an Irishman by birth, who was lately serving on board the United States' frigate *Constitution*, under the name of Thomas Hollands; and of a letter from Captain Hall, of His Majesty's ship *Royal William*, to Admiral Sir Roger Curtis, giving an account of the same Charles Davis, and of his escape from the *Constitution* frigate.

No. 2. contains the copy of a letter from Captain Hall, to Sir Roger Curtis, transmitting a statement of the names and descriptions of twenty-eight British seamen, on board the *Constitution* and *Wasp*.

No. 3. contains a copy of a letter from Sir Roger Curtis, to Mr. Croker, stating the real name and birth-place of William Smith, who ran away from the United States' frigate *Constitution*, and who proves to be a native of England, and whose name is John Taylor.

No. 4. contains the copy of another letter from Sir Roger Curtis, to Mr. Croker, transmitting the affidavits of George Warren, and Daniel Murphy, British seamen, who ran away from the *Constitution* and *Hornet*; and of the wife of William Bowman, who is alluded to above.

And, No. 5, contains the deposition on oath of John Taylor, mentioned in No. 3.

The correspondence between the Earl of Liverpool, and Mr. Russell, on the subject of Bowman, I do not enclose, concluding that Mr. Russell will have already transmitted copies of it to his Government. You will, however, find in No. 4, the statement of the circumstances attending Bowman's forcible detention.

I have the honour to be &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(For Papers referred to in Fourth Inclosure of No. 23. See Inclosures in No. 1.)

(Fifth Inclosure, referred to in No. 23.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, June 8, 1812.

I HAVE had the honour to receive your letter of June 1st, with the papers enclosed, relating to several British seamen, who are stated to have entered into the naval service of the United States.

Without repeating what I had the honour to state to you in a personal interview, respecting the deserter from the *Gleaner*, and the conduct of the armed party from that vessel who pursued him some distance into the country; I shall confine my remarks to your complaint of the detention of British seamen in American vessels, twenty-eight of whom are said to have been on board the *Constitution*. Although the fact cannot be admitted on the evidence produced, because it is contrary to the laws of the United States, yet it will be enquired into. It is also possible that the seamen so detained, admitting the-

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fact of their detention, may have become legally American citizens, in which case they must be protected as such. The Government of the United States can make no distinction between native and naturalized citizens, as has been already remarked to you. I repeat also, that your Government cannot object to this rule, because a British statute naturalizes, *ipso facto*, all alien seamen who shall have been two years on board a British ship of war, and considers them, equally with natives, within the allegiance, and entitled to the protection of Great Britain.

The principal object of your letter seems to be, to find some analogy between the American practice with respect to seamen, and the British practice, and to deduce from the former a justification of the latter. Permit me to note the difference, or rather the contrast between them.

The regulations of the United States prohibit the enlistment of aliens into their vessels of war. No such regulations exist on the side of Great Britain.

Enlistments, by force or impressment, are contrary to the laws of the United States. This mode of procuring crews for public ships is not only practised by Great Britain within her legal jurisdiction, but is extended to foreign vessels on the high seas, with abuses which aggravate the outrage to the nations to whom the vessels belong.

Most of the states composing our union, have enacted laws providing for the restoration of seamen abandoning the service of merchant vessels, to which they were bound by voluntary engagement. If no provision has been made for the surrender of deserters from public ships, it is because such deserters, although, in many instances forced into the service, would be deemed malefactors, and punishable as such; and it is not the practice of any country, particularly of Great Britain, to surrender malefactors without a stipulation, which is always reciprocal. In Great Britain, we know from experience, that no provision exists for restoring American seamen to our merchant vessels, even to the fulfilment of their voluntary engagements; and, if deserters from American ships of war are ever restored, it is by the courtesy, not the legal duty, or perhaps authority, of British naval commanders, and from the policy of recommending a practice, which, if mutual, must be evidently in favour of the British service, the desertion from it being so common, in comparison with that from the service of the United States.

You observe, that your Government has charged you to state, that it will continue to give the most positive orders against the detention of American citizens on board British ships of war. If those orders were to prohibit the impressment of seamen from American vessels at sea, the great source of the evil, they would have been a welcome proof of its disposition to do justice, and promote a good understanding between the two countries. Nothing short of this can be an adequate remedy; and the United States are known to be ready to substitute for the practice the most liberal arrangements on the subject. But, suppose the orders to be given as signified, and in the latitude and form promising most efficacy, how could they restore that portion of the thousands of our citizens, who have been impressed, or passed into ships stationed or cruising in remote parts of the globe? But it is signified only that your Government will continue to give orders against the detention of American citizens, on board British ships of war. It follows that they are to be detained as heretofore, until formal proof can be produced to the British Admiralty, in each particular instance, that the seaman is a native citizen of the United States, the difficulty and delay in doing which, are too obvious to need explanation. Nor is this the only cause of complaint. When such proof has been produced to the British Admiralty, a direct refusal is made to the discharge of the seaman, if he has resided in Great Britain, shall have married there, or shall have accepted the bounty given to seamen voluntarily entering the service, although for the most part the American seamen, after having been forced into the service, have accepted the bounty, either to relieve their wants, or otherwise to alleviate their condition. I omit other causes

of detention which might be mentioned. Add to the whole, that it is not sufficient to prove, that the seamen taken from American vessels are not subjects of Great Britain, nor the subjects of her enemy. It has been the inviolable practice of the British cruizers to include in their impressments from American vessels, the citizens and subjects of every neutral nation, even where it was known that they were such; and no instance, it is believed, can be given, of the success of an application for the restoration of such neutral aliens to the service of the United States.

These observations cannot fail, as I presume, to satisfy you, Sir, how little ground your Government has for the complaints stated in your letter, and how much the United States have for those they have so long, and so strenuously, but at the same time, so ineffectually presented, in behalf of their injured mariners.

I have the honour to be, &c.

A. J. Foster, Esq.

(Signed)

JAMES MONROE.

No. 24.

Mr. Foster to Viscount Castlereagh.

MY LORD,

Washington, June 18, 1812.

I HAVE the honour to transmit to your Lordship, the sequel of my correspondence with Mr. Monroe, relative to the Orders in Council, consisting of my note to him, dated June 10th, of his answer dated the 13th, and of a note from me of the following day, which closed the correspondence between us on this subject.

I have likewise the honour to transmit a copy of Mr. Monroe's answer to my letters respecting the supposed intervention of the British Government, in instigating the Indians to commit hostilities against the United States, and of its enclosures, tending to shew (although on very vague grounds), that some British individuals had excited the hostility of those tribes against the United States; as well as of my reply to this letter, which has not been laid before Congress, although the other letters mentioned above have been.

I beg leave to add a copy of Mr. Monroe's answer to my letter, relative to William Bowman, alias Helby, in which is enclosed a deposition of that person, taken on board the United States' ship *Hornet*, in which he states, that he voluntarily entered into the service of the United States, on July 3d, 1811, at Philadelphia; and a printed copy of a letter which has been laid before Congress, from Mr. Russell, the American Chargé d'Affaires in London, to Mr. Monroe, transmitting to his Government, his answer to your Lordship's letter to him of April 21, communicating the Declaration of His Royal Highness the Prince Regent, and the Order in Council of that day's date.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

*Viscount Castlereagh,
&c. &c. &c.*

(*First Inclosure, referred to in No. 24.*)

Mr. Foster to Mr. Monroe.

SIR,

Washington, June 10, 1812.

It has been extremely satisfactory to me to find by your letter dated June 6th, which I had the honour to receive yesterday morning, that it was not the wish of the American Government to close all further discussion relative to the important question at issue between the two countries. I beg you to be assured, Sir, that it never was my intention, in alluding to my letters which had remained without answer at your office, to use any expressions which could in the most remote manner contain any thing personal. I shall ever be ready with pleasure to bear testimony to that frankness, candour, and good temper which so eminently distinguish you, and have been acknowledged to belong to you by all who have ever had the honour to discuss with you any questions of public interest.

But, Sir, although you were not backward in entering into full explanations with me verbally, I could not but feel, particularly as I had just had communications to make to you of the greatest importance, that I had a right to expect from you a written reply to them, and while I remembered that two of my former notes were still unanswered, the one written three months ago, containing among other important topics, a particular question which I was expressly instructed to put to you, as to whether you could point to any public act on the part of the French Government, by which they had really revoked their Decrees, and the other furnishing strong evidence of the continued existence of those very Decrees; also, when I perceived that my note communicating the French Minister's report, which you knew was to be sent to you on the 1st inst. was not waited for, but that a message was transmitted by the executive to Congress, which it seems contained a reference to an insulated passage in the dispatch on which my note was founded, that if taken unconnected with what preceded or followed it, might be liable to misconception:—I could not avoid apprehending that no means of further explanation might be left open to me.

I beg you to be assured, Sir, that if I was embarrassed by your demand of an explanation as to what appeared to you to be a difference between Lord Castlereagh's dispatch, communicated to you, and my note, it arose from the novelty of the demand that seemed to involve an informality of proceeding in which I could not feel myself justified in acquiescing. Had you in making a reply to my communication, asked me how far a repeal of the French Decrees was demanded by my Government, and as to whether a special repeal as far as respected America, would be sufficient, I should have had no hesitation in giving you every satisfaction.

Your note of the 6th instant has, by shewing that the door was not absolutely shut to a continuation of our discussion, relieved me from further difficulty on this point.

I have no hesitation, Sir, in saying that Great Britain, as the case has hitherto stood, never did, nor ever could engage without the grossest injustice to herself and her allies, as well as to other neutral nations, to repeal her Orders as affecting America alone, leaving them in force against other States, upon condition that France would except singly and specially America from the operation of her Decrees. You will recollect, Sir, that the Orders in Council are measures of defence directed against the system contained in those Decrees; that it is a war of trade which is carried on by France; that what you call the municipal regulations of France have never been called municipal by France herself, but are her main engines in that novel and monstrous system. It cannot then be expected that Great Britain should renounce her efforts to throw back upon France the evils with which she menaces Great

Britain, merely because France might seek to alleviate her own situation by waving the exercise of that part of her system which she cannot enforce.

But, Sir, to what purpose argue upon a supposed case, upon a state of things not likely to occur, since the late report and senatus consultum, which have been published to the world, as it were, insultingly, in the face of those who would contend that any repeal, whatever had taken place of the Decrees in question.

You draw a comparison between the mode in which this instrument has appeared, and that which you call the high evidence of the repeal, as stated in M. Champagny's note, and it would almost seem as if you considered the latter as the most authentic of the two; but, Sir, you cannot seriously contend that the French Minister's report with the senatus consultum accompanying it, published in the official paper of Paris, is not a very different instrument from the above letter, offering a mere provisional repeal of the Decrees upon conditions utterly inadmissible; conditions too, which really formed of themselves a question of paramount importance.

The condition then demanded, and which was brought forward so unexpectedly, was a repeal of the blockade of May 1806, which Mr. Pinkney, in the letter you have referred me to, declared to have been required by America as indispensable, in the view of her Acts of Intercourse and Non-Intercourse, as well as a repeal of other blockades of a similar character which were maintained by Great Britain, to be founded on strict maritime right.

The conditions now annexed to the French demand are much more extensive, and, as I have shewn, include a surrender of many other of the most established principles of the public law of nations.

I cannot, I confess, see upon what ground you contend that the report of the French Minister affords no proof against any partial repeal of the French Decrees. The principles advanced in that report are general; there is no exception made in favour of America, and in the correspondence of Mr. Barlow, as officially published, he seems to allow that he had no explanation respecting it. How can it therefore be considered in any other light than as a re-publication of the Decrees themselves; which, as it were, to take away all grounds for any doubt, expressly advances a doctrine that can only be put in practice on the high seas, namely, "that free ships shall make free goods," since the application of such a principle to vessels in port is absolutely rejected under his continental system.

It is indeed impossible to see how, under such circumstances, America can call upon Great Britain to revoke her Orders in Council. It is impossible that she can revoke them at this moment in common justice to herself and to her allies; but, Sir, while under the necessity of continuing them, she will be ready to manage their exercise so as to alleviate, as much as possible, the pressure upon America; and it would give me great pleasure to confer with you at any time upon the most advisable manner of producing that effect.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Second Inclosure, referred to in No. 24.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, June 13, 1812.

I AM not aware that any letter of yours, on any subject on which the final decision of this Government had not been communicated to you, has been suffered to remain without a prompt and written answer. And even in the cases thus supposed to have been settled, which you thought proper to revive, although no favourable change had taken place in the policy or measures of your Government, I have never failed to explain to you, informally, in early interviews, the reasons which made it imperiously the duty of the United States, to continue to afford to their rights and interests, all the protection in their power. The acknowledgment of this, on your part, was due to the frankness of the communications which have passed between us, on the highly important subjects on which we have treated, and I am happy to find by your letter of the 10th instant, that, in relying on it, I have not been disappointed.

The impropriety of the demand made by your Government, of a copy of the instrument or instructions given by the French Government to its cruizers, after the repeal of the Berlin and Milan Decrees, was sufficiently shewn in Mr. Pinkney's letter to the Marquess Wellesley, of the 10th of December, 1810, and in my letters to you of the 23d of July, 1811, and 14th of January last. It was for this reason that I thought it more suitable to refer you to those letters, for the answer to that demand, than to repeat it in a formal communication.

It excites, however, no small surprise, that you should continue to demand a copy of that instrument, or any new proof of the repeal of the French Decrees, at the very time that you declare, that the proof which you demand, in the extent to which we have a right to claim the repeal, would not, if afforded, obtain a corresponding repeal of the Orders in Council. This demand is the more extraordinary, when it is considered, that since the repeal of the Decrees, as it respects the United States, was announced, your Government has enlarged its pretensions, as to the conditions on which the Orders in Council should be repealed, and even invigorated its practice under them.

It is satisfactory to find that there has been no misapprehension of the condition, without which your Government refuses to repeal the Orders in Council. You admit, that to obtain their repeal, in respect to the United States, the repeal of the French Decrees must be absolute and unconditional, not as to the United States only, but as to all other neutral nations; not, as far as they affect neutral commerce only, but as they operate internally, and affect the trade in British manufactures with the enemies of Great Britain. As the Orders in Council have formed a principal cause of the differences, which unhappily exist between our countries; a condition of their repeal communicated in any authentic document or manner, was entitled to particular attention: And, surely, none could have so high a claim to it, as the letter from Lord Castlereagh to you, submitted, by his authority, to my view, for the express purpose of making that condition, with its other contents, known to this Government.

With this knowledge of the determination of your Government, to say nothing of the other conditions annexed to the repeal of the Orders in Council, it is impossible for me to devise, or conceive any arrangement, consistent with the honour, the rights and interests of the United States, that could be made the basis, or become the result of a conference on the subject. As the President, nevertheless, retains his solicitude to see a happy termination of any difference between the two countries, and wishes that every opportunity, however unpromising, which may possibly lead to it, should be taken advantage

of; I have the honour to inform you, that I am ready to receive, and pay due attention, to any communications or propositions having that object in view, which you may be authorized to make.

Under existing circumstances, it is deemed most advisable, in every respect, that this should be done in writing, as most susceptible of the requisite precision, and least liable to misapprehension. Allow me to add, that it is equally desirable that it should be done without delay. By this it is not meant to preclude any additional opportunity, which may be afforded by a personal interview.

I have the honour to be, &c.
(Signed) JAMES MONROE.

A. J. Foster, Esq.

(Third Inclosure, referred to in No. 24.)

Mr. Foster to Mr. Monroe.

Sir,

Washington, June 14, 1812.

I HAVE the honour to acknowledge the receipt of your letter of the 13th instant.

It is really quite painful to me to perceive, that, notwithstanding the length of the discussions which have taken place between us, misapprehensions have again arisen respecting some of the most important features, in the questions at issue between the two countries, which misapprehensions, perhaps, proceeding from my not expressing myself sufficiently clear in my note of the 13th instant, in relation to one of those questions, it is absolutely necessary should be done away.

I beg leave again to state to you, Sir, that it is not the operation of the French Decrees upon the British trade with the enemies of Great Britain, that has ever formed a subject of discussion between us, and that it is the operation of those Decrees upon Great Britain, through neutral commerce only, which has really been the point at issue. Had America resisted the effect of those Decrees in their full extent, upon her neutral rights, we should never have had a difference upon the subject. But, while French cruizers continued to capture her ships under their operation, she seems to have been satisfied if those ships were released by special imperial mandates, issued as the occasion arose, and she has chosen to call municipal, an unexampled assumption of authority by France, in countries not under French jurisdiction, and expressly invaded for the purpose of preventing their trade with England, upon principles directly applicable to, if they could be enforced against, America.

I beg you to recollect, Sir, that if no revocation has been made of the Orders in Council, upon any repeal of the French Decrees, as hitherto shewn by America to have taken place, it has not been the fault of His Majesty's Government. It was France, and afterwards America, that connected the question relative to the right of blockade, with that arising out of the Orders in Council. You well know, that if these two questions had not been united together, the Orders in Council would have been, in 1810, revoked. How could it be expected that Great Britain, in common justice to other neutral nations, to her allies, and to herself, should not contend for a full and absolute repeal of the French Decrees, or should engage to make any particular concession in favour of America, when she saw that America would not renounce her demand for a surrender, with the Orders in Council, of some of our most important maritime rights.

Even to this day, Sir, you have not explicitly stated in any of the letters to which you refer me, that the American Government would expressly renounce asking for a revocation of the blockade of 1806, and the other blockades alluded to in Mr. Pinkney's letter; much less have I been able to obtain from

you any disclaimer of the right asserted by France, to impose upon the world the new maritime code promulgated by France, in the late re-publication of her Decrees; although I have, by order of my Government, expressly stated their expectation of such disclaimer, and repeatedly called for an explanation upon this point.

I will now say, that I feel entirely authorized to assure you, that if you can at any time produce a full and unconditional repeal of the French Decrees, as you have a right to demand it in your character of a neutral nation, and that it be disengaged from any question concerning our maritime rights, we shall be ready to meet you with a revocation of the Orders in Council. Previously to your producing such an instrument, which I am sorry to see you appear to regard as unnecessary, you cannot expect of us to give up our Orders in Council.

In reference to the concluding paragraph of your letter, in answer to that in mine of the 10th instant, I will only say, that I am extremely sorry to find you think it impossible to devise or conceive any arrangement, consistent with the honour, rights, and interests of the United States, which might tend to alleviate the pressure of the Orders in Council upon the commerce of America. It would have given me great satisfaction, if we could have fallen upon some agreement that might have had such effect. My Government, while under the imperious necessity of resisting France with her own weapons, most earnestly desires that the interests of America may suffer as little as possible from the incidental effect of the conflict. They are aware that their retaliatory measures have forced the Ruler of France to yield, in some degree, from his hostile Decrees; and whether it were more advisable to push those measures vigorously on, until they complete the breaking of it up altogether, (the main object of our retaliatory system), or to take advantage of the partial and progressive retractions of it produced by the necessities of the enemy, has been a question with His Majesty's Government. It is one on which they would have been most desirous to consult the interests of America. Under existing circumstances, however, and from our late communications, I have not felt encouraged to make you any written proposal, arising out of this state of things; I shall, therefore, merely again express to you, that as the object of Great Britain has been throughout to endeavour, while forced in behalf of her most important rights and interests, to retaliate upon the French Decrees, to combine that retaliation with the greatest possible degree of attention to the interests of America, it would give His Majesty's Government the most sincere satisfaction, if some arrangement could be found which would have so desirable an effect.

I have the honour to be, &c.
(Signed)

A. J. FOSTER.

The Hon. J. Monroe.

(Fourth Inclosure, referred to in No. 24.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, June 10, 1812.

IN answer to the letters of the 7th and 8th instant, which I have had the honour to receive from you, disclaiming any agency of your Government in promoting the hostility of the Indians, it is my duty to communicate to you such information as has been transmitted to this Government on the subject, at different periods, since the year 1807. From these documents it appears that whatever may have been the disposition of your Government, the conduct of its subordinate agents has tended to excite the hostility of those tribes towards the United States.

In estimating the comparative evidence on this subject, it is impossible not to recollect the communication lately made to this Government respecting the conduct of Sir James Craig in another important transaction, which it appears was approved by Lord Liverpool.

I have the honour to be, &c.
(Signed) JAMES MONROE.

A. J. Foster, Esq.

(Papers referred to in Fourth Inclosure in No. 24.)

Extracts of letters to the Secretary of War, from Captain Dunham of the United States' Army.

Michilimackinac, May 24, 1807.

THERE appears to be a very general and extensive movement among the savages in this quarter. Belts of wampum are rapidly circulating from one tribe to another, and a spirit is prevailing by no means pacific. The inclosed talk which has been industriously spread among them needs no comment.

There is certainly mischief at the bottom, and there can be no doubt in my mind that the object and intention of this great Maniton, or second Adam, under the pretence of restoring to the aborigines their former independence, and to the savage character its ancient energies, is in reality to induce a general effort to rally, and to strike, somewhere, a desperate blow.

Extract from a talk delivered at Le Maiouitinong, entrance of Lake Michigan, by the Indian chief Le Maigouis, or the Trout, May 4, 1807.

I am the father of the English, of the French, of the Spaniards and of the Indians. I created the first man, who was the common father of all these people as well as yourselves; and it is through him, whom I have awaked from his long sleep, that I now address you. But the Americans I did not make; they are not my children, but the children of the Evil Spirit. They grew from the scum of the great waters when it was troubled by the Evil Spirit, and the froth was driven into the woods by a strong east wind. They are numerous, but I hate them. My children, you must not speak of this talk to the whites; it must be hidden from them. I am now on the earth, sent by the Great Spirit to instruct you. Each village must send me two or more principal chiefs to represent you, that you may be taught. The bearer of this talk will point out to you the path to my wigwam. I could not come myself to Abre Crocte, because the world is changed from what it was. It is broken and leans down, and as it declines, the Chippewas and all beyond will fall off and die; therefore you must come to see me and be instructed. Those villages which do not listen to this talk and send me two deputies, will be cut off from the face of the earth.

From Captain Dunham, of the United States' Army.

Michilimackinac, August 30, 1807.

The cause of the hostile feelings on the part of the Indians, is principally to be attributed to the influence of foreigners trading in the country.

From Governor William H. Harrison.

Jeffersonville, (Falls of Ohio.) April 14, 1808.

A young man from the Delaware towns came to inform me that a Pottawattimie Indian had arrived at the towns with a speech from the British, in which they were informed that they (the British) were upon the point of commencing hostilities against the United States, and requesting the Delawares to join them.

From General William Clark.

St. Louis, April 30, 1809.

I have the honour to inclose you a copy of a letter which confirms my suspicions of the British interference with our Indian affairs in this country.

[Extract referred to above.]

I am at present in the fire, receiving Indian news every day. A Chief of the Puant nation appears to be employed by the British to get all the nations of Indians to Detroit, to see their fathers, the British, who tell them that they pity them in their situation with the Americans, because the Americans had taken their lands and their game, that they must join and send them off from their lands. They told the savages that the Americans could not give them a blanket nor any thing good for their families.

They said they had but one father that helped them in their misfortunes, and that they would assemble, defend their father, and keep their lands. It appears that four English subjects have been at Rivière à la Roche this winter, in disguise; they have been there to get the nations together and send them on the American frontiers. The Indians are pushed on by our enemies to take the fort of Belle-vue.

From Samuel Tupper, Indian factor.

Sandusky, June 7, 1809.

THE conduct of British traders in introducing spirituous liquors among the Indians in this part of the country, and their determined hostility to the measures of our Government, have long been subjects of complaint.

From Governor William Hull.

Detroit, June 16, 1809.

The influence of the prophet has been great, and his advice to the Indians injurious to them and the United States. The powerful influence of the British has been exerted in a way alluring to the savage character.

From Governor Harrison.

Vincennes, June 14, 1810.

An Iowa Indian informs me, that two years ago this summer, an agent from the British arrived at the prophet's town, and in his presence delivered

the message with which he was charged : the substance of which was to urge the prophet to unite as many tribes as he could against the United States, but not to commence hostilities until they gave the signal. From this man and others of his nation, I learn that the prophet has been constantly soliciting their own and other tribes of the Mississippi to join him against the United States.

From Governor Harrison.

Vincennes, July 18, 1810.

A considerable number of Sacs went some time since to see the British superintendent, and on the 1st instant fifty more passed Chicago for the same destination.

A Miami chief who has just returned from his annual visit to Malden, after having received the accustomed donation of goods, was thus addressed by the British agent : " My son, keep your eyes fixed on me ; my tomahawk is now up ; be you ready, but do not strike until I give the signal."

From General William Clark.

St. Louis, July 20, 1810.

ONE hundred and fifty Sacs are on a visit to the British agent, by invitation, and a smaller party on a visit to the island of St. Joseph, in Lake Huron.

From Governor W. H. Harrison.

Vincennes, July 25, 1810.

THERE can be no doubt of the designs of the prophet and the British Agent of Indian Affairs, to do us injury. This agent is a refugee from the neighbourhood of ———, and his implacable hatred to his native country prompted him to take part with the Indians in the battle between them and General Wayne's army. He has, ever since his appointment to the principal agency, used his utmost endeavours to excite hostilities, and the lavish manner in which he is allowed to scatter presents amongst them, shews that his Government participates in his enmity, and authorizes his measures.

From Governor William Hull.

Detroit, July 27, 1810.

Large bodies of Indians from the westward and southward continue to visit the British post at Amherstburg, and are supplied with provisions, arms, ammunition, &c. Much more attention is paid to them than usual.

Extract from the speech of Red Jacket, in behalf of himself and the other Deputies of the six nations, February 1810.

BROTHER,

Since you have had some disputes with the British Government, their agents in Canada have not only endeavoured to make the Indians at the west-

ward your enemies, but they have sent a war belt amongst our warriors to poison their minds, and make them break their faith with you. At the same time we had information that the British had circulated war belts among the western Indians, and within your territory.

From John Johnson, Indian Agent.

Fort Wayne, Aug. 7, 1810.

Since writing to you on the 25th ultimo, about one hundred men of the Saukies have returned from the British agent, who supplied them liberally with every thing they stood in want of. The party received forty-seven rifles, and a number of fusils, with plenty of powder and lead. This is sending firebrands into the Mississippi country, inasmuch as it will draw numbers of our Indians to the British side, in the hope of being treated with the same liberality.

From Governor W. H. Harrison.

Vincennes, February 6, 1811.

If the intentions of the British Government are pacific, the Indian Department of Upper Canada have not been made acquainted with them, for they have very lately said every thing to the Indians who have visited them to excite them against us.

From John Johnston.

Fort Wayne, February 8, 1811.

* * * * * has been at this place. The information derived from him is the same I have been in possession of for several years, to wit: the intrigues of the British agents and partizans in creating an influence hostile to our people and Government within our territory.

From Mr. Irwin, Indian Factor.

Chicago, May 13, 1811.

An assemblage of the Indians is to take place on a branch of the Illinois, by the influence of the Prophet: the result will be hostile in the event of a war with Great Britain.

From Governor W. H. Harrison.

Vincennes, September 17, 1811.

* * * * * states, that almost every Indian from the country above this had been, or were then gone to Malden on a visit to the British agent. We shall probably gain our destined point at the moment of their return. If then the British agents are really endeavouring to instigate the Indians to make war upon us, we shall be in their neighbourhood at the very moment when the impressions which have been made against us are most active in the minds of the savages.

***** succeeded in getting the chiefs together at Fort Wayne, though he found them all preparing to go to Malden. The result of the Council discovered that the whole tribes (including the Weas and Eel rivers, for they are all Miamies) were about equally divided in favour of the Prophet and the United States. Lapoussier, the Wea chief, whom I before mentioned to you as being seduced by the Prophet, was repeatedly asked by ***** what land it was that he was determined to defend with his blood, whether it was that which was ceded by the late treaty or not; but he would give no answer.

***** reports, that all the Indians of the Wabash have been, or now are, on a visit to the British agents at Malden. He has never known one fourth as many goods given to the Indians as they are now distributing. He examined the share of one man (not a chief), and found that he had received an elegant rifle, twenty-five pounds of powder, fifty pounds of lead, three blankets, three strouds of cloth, ten shirts, and several other articles. He says every Indian is furnished with a gun (either rifle or fusil), and an abundance of ammunition. A trader of this country was lately in the king's stores, at Malden, and was told that the quantity of goods for the Indian department, which had been sent out this year, exceeded that of common years by twenty thousand pounds sterling. It is impossible to ascribe this profusion to any other motive than that of instigating the Indians to take up the tomahawk. It cannot be to secure their trade; for all the peltries collected on the waters of the Wabash in one year, if sold in the London market, would not pay the freight of the goods which have been given to the Indians.

I am decidedly of opinion that the tendency of the British measures is hostility to us.

From Governor Willie Blount.

Nashville, September 11, 1811.

There is in this place a very noted chief of the Chickasaws, a man of truth, who wishes the President should be informed that there is a combination of the northern Indians, promoted by the English, to unite in falling on the frontier settlements, and are inviting the southern tribes to join them.

From Governor Ninian Edwards.

Cahokia, St. Clair County.

Illinois Territory, April 24, 1812.

The opinion of the celebrated British trader, Dixon, is, that in the event of a British war, all the Indians will be opposed to us, and he hopes to engage them in hostility by making peace between the Sioux and Chipewas, two very large nations, and getting them to declare war against us.

Extract of a Letter from His Excellency Ninian Edwards, Governor of the Illinois Territory, to the Secretary of War, dated

Illinois Territory, January 25, 1812.

MANY of those Indians certainly contemplate joining the British. They are in the habit of visiting fort Malden annually; and as soon as they are prepared for their departure thither, they will (as I believe they have already declared) make inroads upon our settlements, as well to take scalps as to steal horses.

[CLASS D.]

Z

Extract of a Letter from General William Clarke to the Secretary at War, dated

St. Louis, February 13, 1812.

If possession was taken of a point about the mouth of Fox River, where it enters into Green Bay, communications would be cut off between the traders, and Indians on the Mississippi below Prairie du Chien, and the British trading houses on the Lakes. Smuggling might be prevented through that channel. Mr. Dickson, and those British traders, who are also agents, who have smuggled an immense quantity of goods through that channel this year, and now in the Mississippi, could be caught on their return as they go out in the spring. This description of people grasp at every means in their power to wean the affections of the Indians from any thing that is American; having it in their power to make large presents to the Indians, the most of whom are to be bought; and by this means create great difficulty wherever they have an influence.

Extracts of a Letter from John Shaw, Esq. Indian Agent, to the Secretary at War, dated

Fort Wayne, 3d month 10th, 1812.

It appears that the hostile disposition of the Indians confederated under the Shawanee Prophet, that so recently manifested itself in the conflict on the Wabash, is not yet changed. By every thing that I am able to learn, they are secretly plotting to strike an effective blow on our frontier; and it is said that they have been this winter invited by the British agent at Fort Malden, to pay him a visit; and I believe it is a fact, that a considerable number of them have recently gone to that place with a view of procuring ammunition.

A speech is also said to have been recently sent to Winnemac, a Pottawatamie chief, from Elliot, the British agent; but to what purpose I have not yet been able to learn.

Extracts of a Letter from John Shaw, Esq. Indian Agent, to the Secretary at War, dated

Fort Wayne, 2d month 1st, 1812.

It has been reported by a Miami Indian who was hunting a few miles from this, that twenty-four Indians of the Shawanee Prophet's band, composed of Winabagoes, Kickapoos, and Shawanees, passed his camp about six days ago, on their way to Sandusky, for a quantity of powder and lead, which they said was to be sent them from Canada.

It also appears, from the statement of a gentleman from Detroit, that the Morpock (Pottawatamie chief), with a small party of Indians, has been, for a considerable time past, encamped on the river Raisin, and constantly getting provisions from the British at Fort Malden, and that it is firmly believed he is waiting for a signal from Elliot, the British agent, to commence hostilities on our frontiers.

Extract of a Letter from Robert Forsyth, Esq. to Captain Rhea, commanding at Fort Wayne, dated

Fort Wayne, March 10, 1812.

I HAVE no doubt but those Indians that passed this post some time ago are a deputation sent to the British garrison for the purpose of procuring ammunition.

The Manpock, a Pottawattamie chief, has wintered at river Huron, about twenty miles from the garrison of Amhurstburg, and has drawn provisions and ammunition during the whole winter. He has about twenty men with him.

Extract of a Letter from B. J. Stickney, Esq. Indian Agent, to His Excellency W. H. Harrison, dated

Fort Wayne, April 18, 1812.

MR. SHAW has informed you that twenty-four of the Prophet's band had passed this place in the last of February, for Fort Malden, to receive ammunition which was promised to be ready for them. They returned on the 4th instant, with as much gunpowder, lead, and new fusils, as they could carry.

(Fifth Inclosure, referred to in No. 24.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, June 11th, 1812.

I HAVE the honour to acknowledge the receipt of your letter of yesterday's date.

In transmitting to you official statements respecting the interposition of His Majesty's constituted authorities in Canada, to prevent as much as lay in their power the inroads of the Indian tribes upon the American frontiers, which interposition had been approved of by His Majesty's Government, I conceived I was affording you proofs of offices of friendship and good neighbourhood done to this country, that I was not called upon to shew, but which would be received with the attention due to the motives under which they were presented.

I am certainly not prepared to answer to the imputations made in the paper you have sent me against the conduct of individual British subjects, scattered as they are over so extensive a region, nor to the various rumours of "British influence and British agency," which form the subject of so many of them.

In the same spirit with which I made you the communication in question, I shall forbear to express what the second paragraph of your letter might suggest to me.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Sixth Inclosure, referred to in No. 24.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, June 10th, 1812.

I HAVE the honour to transmit to you, for the information of your Government, the inclosed papers in relation to William Helby, alias William Bowman, a sailor belonging to the United States' sloop of war the Hornet, for whom Lord Castlereagh, on the 20th of February, when his Lordship supposed that vessel was in a British port, informed Mr. Russell, that a writ of habeas corpus would be issued and enforced by the legal authorities of Great Britain.

I have the honour to be, &c.

JAMES MONROE.

A. J. Foster, Esq.

(Papers referred to in Sixth Inclosure in No. 24.)

SIR,

Navy Department, June 8th, 1812.

HAVING seen the deposition of Elizabeth E. Bowman, in the case of William Bowman, alias William Helby, alias William Elby, said to have been compelled by force to enter on board the Hornet, I wrote to Captain Lawrence, commander of the Hornet, for information on the subject, and have received from him the paper which I have the honour of transmitting herewith.

It can be scarcely necessary for me to remark that neither the laws nor usages of our country, would sanction any compulsory means to induce persons to enter the navy of the United States.

I am, &c.

(Signed)

PAUL HAMILTON.

The Hon. the Secretary of State.

United States' ship Hornet.

New York, June 2d, 1812.

I do hereby certify, that in consequence of not being able to get a birth on board a merchant ship, and being absolutely in want of bread, I was induced to enter as a seaman on board the Hornet, and for that purpose repaired to her rendezvous, then open in Philadelphia, and voluntarily entered with Lieutenant Cassin, on the 3d July 1811, to serve the United States of America honestly and faithfully for the term of two years, unless sooner discharged. At the time I shipped, I declare that I was perfectly sober, and that as soon as I had received my three months' advance, I went on board the gun boat then laying off the navy yard, for the purpose of receiving the men shipped for the Hornet, accompanied by the officer commanding her and the landlord of the rendezvous; and I solemnly declare, that no force whatever was used to compel me to enter the service, or to get me on board the gun boat.

(Signed)

WM. HELBY.

Witnesses.

(Signed) } JOSEPH SMOOT, Midshipman United States' navy.
 } JACOB M. JACOBS, Captain's Clerk.

For Seventh Inclosure, referred to in No. 24.

See No. 38.—Class A.

No. 25.

Mr. Foster to Viscount Castlereagh.—Extract.

Washington, June 20th, 1812.

I HAVE the honour to transmit to your Lordship, the inclosed printed copy of the Act of Congress, declaring war to exist between the United States and Great Britain, and authorizing the President to carry it on by land and sea. It passed on the 17th instant, by a majority of six of the Senate.

The President's message to Congress, sent in on the 1st of June, and the report of the Committee of Foreign Relations, recommending an appeal to arms, are annexed to it.

I have to remark on this extraordinary measure, that it seems to have been unexpected by nearly the whole nation; and to have been carried in opposition to the declared sentiments of many of those who voted for it, in the House of Representatives, as well as in the Senate, in which latter body, there was known to have been at one time, a decided majority against it.

(First Inclosure, referred to in No. 25.)

An Act, declaring War between the United Kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America, and their territories.

BE it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled, That War be, and the same is hereby, declared to exist, between the United Kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America and their territories; and that the President of the United States be, and he is hereby, authorised to use the whole land and naval force of the United States, to carry the same into effect, and to issue to private armed vessels of the United States, commissions, or letters of marque and general reprisal, in such form as he shall think proper, and under the seal of the United States, against the vessels, goods, and effects of the government of the same United Kingdom of Great Britain and Ireland, and of the subjects thereof.

(Approved)

(Signed)

JAMES MADISON.

June 18, 1812.

(Second Inclosure, referred to in No. 25.)

Message to the Senate and House of Representatives of the United States.

I COMMUNICATE to Congress certain documents, being a continuation of those heretofore laid before them, on the subject of our affairs with Great Britain.

[CLASS D.]

A A

Without going back beyond the renewal, in 1803, of the war in which Great Britain is engaged, and omitting unrepaid wrongs of inferior magnitude, the conduct of her Government presents a series of acts hostile to the United States, as an independent and neutral nation.

British cruisers have been in the continued practice of violating the American flag on the great high-way of nations, and of seizing and carrying off persons sailing under it; not in the exercise of a belligerent right founded on the law of nations against an enemy, but of a municipal prerogative over British subjects. British jurisdiction is thus extended to neutral vessels in a situation where no laws can operate but the law of nations, and the laws of the country to which the vessels belong; and a self-redress is assumed, which, if British subjects were wrongfully detained and alone concerned, is that substitution of force, for a resort to the responsible sovereign, which falls within the definition of war. Could the seizure of British subjects, in such cases, be regarded, as within the exercise of a belligerent right: the acknowledged laws of war, which forbid an article of captured property to be adjudged without a regular investigation before a competent tribunal, would imperiously demand the fairest trial where the sacred rights of persons were at issue. In place of such a trial, these rights are subjected to the will of every petty commander,

The practice, hence, is so far from affecting British subjects alone, that, under the pretext of searching for these, thousands of American citizens, under the safeguard of public law, and of their national flag, have been torn from their country, and from every thing dear to them—have been dragged on board ships of war of a foreign nation, and exposed, under the severities of their discipline, to be exiled to the most distant and deadly climes, to risk their lives in the battles of their oppressors, and to be the melancholy instruments of taking away those of their own brethren.

Against this crying enormity, which Great Britain would be so prompt to avenge, if committed against herself, the United States have, in vain, exhausted remonstrances and expostulations. And that no proof might be wanting of their conciliatory dispositions, and no pretext left for a continuance of the practice, the British Government was formally assured of the readiness of the United States to enter into arrangements, such as could not be rejected, if the recovery of British subjects were the real and the sole object. The communication passed without effect.

British cruizers have been in the practice also of violating the rights and the peace of our coasts. They hover over and harrass our entering and departing commerce. To the most insulting pretensions they have added the most lawless proceedings in our very harbours; and have wantonly spilt American blood within the sanctuary of our territorial jurisdiction. The principles and rules enforced by that nation, when a neutral nation, against armed vessels of belligerents hovering near her coasts, and disturbing her commerce, are well known. When called on, nevertheless, by the United States to punish the greater offences committed by her own vessels, her government has bestowed on their commanders additional marks of honour and confidence.

Under pretended blockades, without the presence of an adequate force, and sometimes without the practicability of applying one, our commerce has been plundered in every sea; the great staples of our country have been cut off from their legitimate markets; and a destructive blow aimed at our agricultural and maritime interests. In aggravation of these predatory measures, they have been considered as in force from the dates of their notification; a retrospective effect being thus added, as has been done in other important cases, to the unlawfulness of the course pursued. And to render the outrage the more signal, these mock blockades have been reiterated and enforced in the face of official communications from the British Government, declaring, as the true definition of a legal blockade, "that particular ports must be actually invested, and previous warning given to vessels bound to them, not to enter."

Not content with these occasional expedients for laying waste our neutral

trade, the Cabinet of Great Britain resorted, at length, to the sweeping system of blockades, under the name of Orders in Council, which has been moulded and managed, as might best suit its political views, its commercial jealousies, or the avidity of British cruisers.

To our remonstrances against the complicated and transcendent injustice of this innovation, the first reply was, that the Orders were reluctantly adopted by Great Britain as a necessary retaliation on the decrees of her enemy, proclaiming a general blockade of the British isles, at a time when the naval force of that enemy dared not to issue from his own ports. She was reminded, without effect, that her own prior blockades, unsupported by an adequate naval force actually applied and continued, were a bar to this plea: that executed edicts against millions of our property could not be retaliation on edicts, confessedly impossible to be executed: that retaliation, to be just, should fall on the party setting the guilty example, not on an innocent party, which was not even chargeable with an acquiescence in it.

When deprived of this flimsy veil for a prohibition of our trade with her enemy, by the repeal of his prohibition of our trade with Great Britain, her cabinet, instead of a corresponding repeal or a practical discontinuance of its Orders, formally avowed a determination to persist in them against the United States, until the markets of her enemy should be laid open to British products; thus asserting an obligation on a neutral power to require one belligerent to encourage, by its internal regulations, the trade of another belligerent; contradicting her own practice towards all nations in peace as well as in war; and betraying the insincerity of those professions which inculcated a belief that, having resorted to her Orders with regret, she was anxious to find an occasion for putting an end to them.

Abandoning still more all respect for the neutral rights of the United States, and for its own consistency, the British Government now demands, as prerequisites to a repeal of its Orders, as they relate to the United States, that a formality should be observed in the repeal of the French Decrees nowise necessary to their termination, nor exemplified by British usage; and that the French repeal, besides including that portion of the Decrees which operates within a territorial jurisdiction as well as that which operates on the high seas, against the commerce of the United States, should not be a single special repeal in relation to the United States, but should be extended to whatever other neutral nations unconnected with them may be affected by those Decrees. And as an additional insult, they are called on for a formal disavowal of conditions, and pretensions advanced by the French Government, for which the United States are so far from having made themselves responsible, that, in official explanations, which have been published to the world, and in a correspondence of the American Minister at London, with the British Minister for Foreign Affairs, such a responsibility was explicitly and emphatically disclaimed.

It has become indeed sufficiently certain, that the commerce of the United States is to be sacrificed, not as interfering with the belligerent rights of Great Britain, not as supplying the wants of her enemies, which she herself supplies; but as interfering with the monopoly which she covets for her own commerce and navigation. She carries on a war against the lawful commerce of a friend, that she may the better carry on a commerce with an enemy, a commerce polluted by the forgeries and perjuries which are for the most part the only passports by which it can succeed.

Anxious to make every experiment short of the last resort of injured nations, the United States have withheld from Great Britain, under successive modifications, the benefits of a free intercourse with their market, the loss of which could not but outweigh the profits accruing from her restrictions of our commerce with other nations. And to entitle these experiments to the more favourable consideration, they were so framed as to enable her to place her adversary under the exclusive operation of them. To these appeals her Government has been equally inflexible, as if willing to make sacrifices of every sort, rather than yield to the claims of justice, or renounce the errors

of a false pride. Nay, so far were the attempts carried, to overcome the attachment of the British Cabinet to its unjust edicts, that it received every encouragement, within the competency of the Executive branch of our Government, to expect that a repeal of them would be followed by a war between the United States and France, unless the French edicts should also be repealed. Even this communication, although silencing for ever the plea of a disposition in the United States to acquiesce in those edicts, originally the sole plea for them, received no attention.

If no other proof existed of a predetermination of the British Government, against a repeal of its Orders, it might be found in the correspondence of the Minister Plenipotentiary of the United States at London, and the British Secretary for Foreign Affairs in 1810, on the question, whether the blockade of May 1805, was considered as in force or as not in force. It had been ascertained, that the French Government, which urged this blockade, as the ground of its Berlin Decree, was willing, in the event of its removal, to repeal that Decree; which, being followed by alternate repeals of the other offensive edicts, might abolish the whole system on both sides. This inviting opportunity for accomplishing an object so important to the United States, and professed so often to be the desire of both the belligerents, was made known to the British Government. As that Government admits that an actual application of an adequate force is necessary to the existence of a legal blockade, and it was notorious, that if such a force had ever been applied, its long continuance had annulled the blockade in question, there could be no sufficient objection on the part of Great Britain, to a formal revocation of it; and no imaginable objection to a declaration of the fact that the blockade did not exist. The Declaration would have been consistent with her avowed principles of blockade, and would have enabled the United States to demand from France the pledged repeal of her Decrees; either with success, in which case the way would have been opened for a general repeal of the belligerent edicts; or without success, in which case the United States would have been justified in turning their measures exclusively against France. The British Government would, however, neither rescind the blockade, nor declare its non-existence; nor permit its non-existence to be inferred and affirmed by the American Plenipotentiary. On the contrary, by representing the blockade to be comprehended in the Orders in Council, the United States were compelled so to regard it in their subsequent proceedings.

There was a period when a favourable change in the policy of the British Cabinet, was justly considered as established. The Minister Plenipotentiary of His Britannic Majesty, here, proposed an adjustment of the differences more immediately endangering the harmony of the two countries. The proposition was accepted with a promptitude and cordiality corresponding with the invariable professions of this Government. A foundation appeared to be laid for a sincere and lasting reconciliation. The prospect, however, quickly vanished. The whole proceeding was disavowed by the British Government, without any explanations which could at that time repress the belief, that the disavowal proceeded from a spirit of hostility to the commercial rights and prosperity of the United States. And it has since come into proof, that at the very moment, when the public Minister was holding the language of friendship, and inspiring confidence in the sincerity of the negotiation with which he was charged, a secret agent of his Government was employed in intrigues, having for their object a subversion of our Government, and a dismemberment of our happy union.

In reviewing the conduct of Great Britain towards the United States, our attention is necessarily drawn to the warfare just renewed by the savages on one of our extensive frontiers; a warfare which is known to spare neither age nor sex, and to be distinguished by features peculiarly shocking to humanity. It is difficult to account for the activity and combinations which have for some time been developing themselves among tribes, in the constant intercourse with British traders and garrisons, without connecting their hostility with that influence; and without recollecting the authenticated examples of such

interpositions, heretofore furnished by the officers and agents of that Government.

Such is the spectacle of injuries and indignities which have been heaped on our country; and such the crisis which its unexampled forbearance and conciliatory efforts have not been able to avert. It might at least have been expected, that an enlightened nation, if less urged by moral obligations, or invited by friendly dispositions on the part of the United States, would have found, in its true interest alone, a sufficient motive to respect their rights and their tranquility on the high seas; that an enlarged policy would have favoured that free and general circulation of commerce, in which the British nation is at all times interested, and which in times of war is the best alleviation of its calamities to herself as well as the other belligerents; and more especially that the British Cabinet would not, for the sake of a precarious and surreptitious intercourse with hostile markets, have persevered in a course of measures which necessarily put at hazard the invaluable market of a great and growing country, disposed to cultivate the mutual advantages of an active commerce.

Other councils have prevailed. Our moderation and conciliation have had no other effect than to encourage perseverance, and to enlarge pretensions. We behold our seafaring citizens still the daily victims of lawless violence, committed on the great and common highway of nations, even within sight of the country which owes them protection. We behold our vessels, freighted with the products of our soil and industry, or returning with the honest proceeds of them, wrested from their lawful destinations, confiscated by prize courts, no longer the organs of public law, but the instruments of arbitrary edicts; and their unfortunate crews dispersed and lost, or forced or inveigled, in British ports, into British fleets: whilst arguments are employed in support of these aggressions, which have no foundation but in a principle equally supporting a claim to regulate our external commerce in all cases whatsoever.

We behold, in fine, on the side of Great Britain, a state of war against the United States; and on the side of the United States a state of peace towards Great Britain.

Whether the United States shall continue passive under these progressive usurpations, and these accumulating wrongs; or, opposing force to force in defence of their natural rights, shall commit a just cause into the hands of the Almighty disposer of events, avoiding all connexions which might entangle it in the contests or views of other powers, and preserving a constant readiness to concur in an honourable re-establishment of peace and friendship; is a solemn question, which the constitution wisely confides to the Legislative Department of the Government. In recommending it to their early deliberations, I am happy in the assurance that the decision will be worthy the enlightened and patriotic councils of a virtuous, a free, and a powerful nation.

Having presented this view of the relations of the United States with Great Britain, and of the solemn alternative growing out of them, I proceed to remark that the communications last made to Congress on the subject of our relations with France, will have shown that since the revocation of her Decrees, as they violated the neutral rights of the United States, her Government has authorised illegal captures, by its privateers and public ships, and that other outrages have been practised on our vessels and our citizens. It will have been seen also, that no indemnity had been provided, or satisfactorily pledged for the extensive spoliations committed under the violent and retrospective Orders of the French Government, against the property of our citizens seized within the jurisdiction of France. I abstain, at this time, from recommending to the consideration of Congress definitive measures with respect to that nation, in the expectation, that the result of unclosed discussions, between our Minister Plenipotentiary at Paris and the French Govern-

[CLASS D.]

B B

ment, will speedily enable Congress to decide, with greater advantage, on the course due to the rights, the interests, and the honour of our country.

(Signed)

JAMES MADISON.

Washington, June 1, 1812.

(Third Inclosure, referred to in No. 25.)

The Committee on Foreign Relations, to whom was referred the Message of the President of the United States, of the 1st of June, 1812;

REPORT,

THAT, after the experience which the United States have had, of the great injustice of the British Government towards them, exemplified by so many acts of violence and oppression, it will be more difficult to justify to the impartial world their patient forbearance, than the measures to which it has become necessary to resort, to avenge the wrongs, and vindicate the rights and honour of the nation. Your committee are happy to observe, on a dispassionate review of the conduct of the United States, that they see in it no cause for censure.

If a long forbearance under injuries, ought ever to be considered a virtue in any nation, it is one which peculiarly becomes the United States. No people ever had stronger motives to cherish peace: none have ever cherished it with greater sincerity and zeal.

But the period has now arrived, when the United States must support their character and station among the nations of the earth, or submit to the most shameful degradation. Forbearance has ceased to be a virtue. War on the one side, and peace on the other, is a situation as ruinous as it is disgraceful. The mad ambition, the lust of power, and commercial avarice of Great Britain, arrogating to herself the complete dominion of the ocean, and exercising over it an unbounded and lawless tyranny, have left to neutral nations an alternative only, between the base surrender of their rights, and a manly vindication of them. Happily for the United States, their destiny, under the aid of Heaven, is in their own hands. The crisis is formidable only by their love of peace. As soon as it becomes a duty to relinquish that situation, danger disappears. They have suffered no wrongs, they have received no insults, however great, for which they cannot obtain redress.

More than seven years have elapsed, since the commencement of this system of hostile aggression by the British Government, on the rights and interests of the United States. The manner of its commencement was not less hostile, than the spirit with which it has been prosecuted. The United States have invariably done every thing in their power to preserve the relations of friendship with Great Britain. Of this disposition they gave a distinguished proof, at the moment when they were made the victims of an opposite policy. The wrongs of the last war had not been forgotten at the commencement of the present one. They warned us of dangers, against which it was sought to provide. As early as the year 1804, the Minister of the United States, at London, was instructed to invite the British Government to enter into a negotiation, on all the points on which a collision might arise between the two countries, in the course of the war, and to propose to it an arrangement of their claims, on fair and reasonable conditions. The invitation was accepted. A negotiation had commenced, and was depending, and nothing had occurred to excite a doubt, that it would not terminate to the satisfaction of both the parties. It was at this time, and under these circumstances, that an attack was made, by surprise, on an important branch of the American commerce,

which affected every part of the United States, and involved many of their citizens in ruin.

The commerce on which this attack was so unexpectedly made, was between the United States, and the colonies of France, Spain, and other enemies of Great Britain. A commerce just in itself, sanctioned by the example of Great Britain, in regard to the trade with her own colonies; sanctioned by a solemn act between the two Governments in the last war; and sanctioned by the practice of the British Government in the present war, more than two years having then elapsed, without any interference with it.

The injustice of this attack could only be equalled by the absurdity of the pretext alleged for it. It was pretended by the British Government, that in case of war, her enemy had no right to modify its colonial regulations, so as to mitigate the calamities of war to the inhabitants of its colonies. This pretension, peculiar to Great Britain, is utterly incompatible with the rights or sovereignty in every independent state. If we recur to the well established, and universally admitted Law of Nations, we shall find no sanction to it, in that venerable code. The sovereignty of every state is co-extensive with its dominions, and cannot be abrogated, or curtailed in its rights, as to any part, except by conquest. Neutral nations have a right to trade to every port of either belligerent, which is not legally blockaded; and, in all articles which are not contraband of war. Such is the absurdity of this pretension, that your committee are aware, especially after the able manner in which it has been heretofore refuted and exposed, that they would offer an insult to the understanding of the House, if they enlarged on it, and if any thing could add to the high sense of the injustice of the British Government in the transaction, it would be the contrast which her conduct exhibits in regard to this trade, and in regard to a similar trade by neutrals with her own colonies. It is known to the world that Great Britain regulates her own trade, in war and in peace, at home and in her colonies, as she finds it for her interest; that in war she relaxes the restraints of her colonial system in favour of the colonies, and that it never was suggested that she had not a right to do it; or, that a neutral in taking advantage of the relaxation, violated a belligerent right of her enemy. But, with Great Britain every thing is lawful. It is only in a trade with her enemies, that the United States can do wrong. With them all trade is unlawful.

In the year 1793 an attack was made by the British Government on the same branch of our neutral trade, which had nearly involved the two countries in war. That difference, however, was amicably accommodated. The pretension was withdrawn, and reparation made to the United States for the losses which they had suffered by it. It was fair to infer from that arrangement that the commerce was deemed by the British Government lawful, and that it would not be again disturbed.

Had the British Government been resolved to contest this trade with neutrals, it was due to the character of the British nation that the decision should be made known to the Government of the United States. The existence of a negotiation which had been invited by our Government, for the purpose of preventing differences by an amicable arrangement of their respective pretensions, gave a strong claim to the notification, while it afforded the fairest opportunity for it. But a very different policy animated the then Cabinet of England. The liberal confidence and friendly overtures of the United States were taken advantage of to ensnare them. Steady to its purpose and inflexibly hostile to this country, the British Government calmly looked forward to the moment, when it might give the most deadly wound to our interests. A trade just in itself, which was secured by so many strong and sacred pledges, was considered safe. Our citizens, with their usual industry and enterprize, had embarked in it a vast proportion of their shipping, and of their capital, which were at sea, under no other protection than the law of nations, and the confidence which they reposed in the justice and friendship of the British na-

tion. At this period the unexpected blow was given. Many of our vessels were seized, carried into port and condemned by a tribunal, which, while it professes to respect the law of nations, obeys the mandates of its own Government. Hundreds of other vessels were driven from the ocean, and the trade itself in a great measure suppressed. The effect produced by this attack on the lawful commerce of the United States was such as might have been expected from a virtuous, independent, and highly injured people. But one sentiment pervaded the whole American nation. No local interests were regarded; no sordid motives felt. Without looking to the parts which suffered most, the invasion of our rights was considered a common cause, and from one extremity of our Union to the other, was heard the voice of an united people, calling on their Government to avenge their wrongs, and vindicate the rights and honour of the country.

From this period the British Government has gone on in a continued encroachment on the rights and interests of the United States, disregarding in its course, in many instances, obligations which have heretofore been held sacred by civilized nations.

In May 1806, the whole coast of the continent from the Elbe to Brest inclusive, was declared to be in a state of blockade. By this act, the well-established principles of the law of nations; principles which have served for ages as guides, and fixed the boundary between the rights of belligerents and neutrals, were violated. By the law of nations, as recognised by Great Britain herself, no blockade is lawful unless it be sustained by the application of an adequate force, and that an adequate force was applied to this blockade in its full extent, ought not to be pretended. Whether Great Britain was able to maintain, legally, so extensive a blockade, considering the war in which she is engaged, requiring such extensive naval operations, is a question which it is not necessary at this time to examine. It is sufficient to be known, that such force was not applied, and this is evident from the terms of the blockade itself, by which, comparatively, an inconsiderable portion of the coast only was declared to be in a state of strict and rigorous blockade. The objection to the measure is not diminished by that circumstance. If the force was not applied, the blockade was unlawful, from whatever cause the failure might proceed. The belligerent who institutes the blockade cannot absolve itself from the obligation to apply the force under any pretext whatever. For a belligerent to relax a blockade, which it could not maintain, it would be a refinement in injustice, not less insulting to the understanding than repugnant to the law of nations. To claim merit for the mitigation of an evil, which the party either had not the power or found it inconvenient to inflict, would be a new mode of encroaching on neutral rights—Your committee think it just to remark that this act of the British Government does not appear to have been adopted in the sense in which it has been since construed. On consideration of all the circumstances attending the measure, and particularly the character of the distinguished statesman who announced it, we are persuaded that it was conceived in a spirit of conciliation, and intended to lead to an accommodation of all differences between the United States and Great Britain. His death disappointed that hope, and the act has since become subservient to other purposes. It has been made by his successors a pretext for that vast system of usurpation, which has so long oppressed and harassed our commerce.

The next act of the British Government which claims our attention is the Order in Council of January 7, 1807, by which neutral powers are prohibited trading from one port to another, of France or her allies, or any other country with which Great Britain might not freely trade. By this Order the pretension of England, heretofore claimed by every other power, to prohibit neutrals disposing of parts of their cargoes at different ports of the same enemy, is revived and with vast accumulation of injury. Every enemy, however great the number, or distant from each other, is considered one, and the like trade even with powers at peace with England, who from motives of

policy had excluded or restrained her commerce, was also prohibited. In this act the British Government evidently disclaimed all regard for neutral rights. Aware that the measures authorised by it could find no pretext in any belligerent right, none was urged. To prohibit the sale of our produce, consisting of innocent articles at any port of a belligerent, not blockaded; to consider every belligerent as one, and subject neutral to the same restraint with all, as if there was but one; were bold encroachments. But to restrain, or in any manner interfere with, our commerce with neutral nations with whom Great Britain was at peace, and against whom she had no justifiable cause of war, for the sole reason, that they restrained or excluded from their ports her commerce; was utterly incompatible with the pacific relations subsisting between the two countries.

We proceed to bring into view the British Order in Council of November 11, 1807, which superseded every other Order, and consummated that system of hostility on the commerce of the United States which has been since so steadily pursued. By this Order all France and her allies, and every other country at war with Great Britain, or with which she was not at war, from which the British flag was excluded, and all the colonies of her enemies; were subjected to the same restrictions as if they were actually blockaded in the most strict and rigorous manner; and all trade in articles, the produce and manufacture of the said countries and colonies, and the vessels engaged in it, were subjected to capture and condemnation as lawful prize. To this Order certain exceptions were made, which we forbear to notice, because they were not adopted from a regard to neutral rights, but were dictated by policy to promote the commerce of England; and so far as they related to neutral powers, were said to emanate from the clemency of the British Government.

It would be superfluous in your Committee to state, that by this Order the British Government declared direct and positive war against the United States. The dominion of the ocean was completely usurped by it, all commerce forbidden, and every flag driven from it, or subjected to capture and condemnation, which did not subserve the policy of the British Government, by paying it a tribute, and sailing under its sanction. From this period the United States have incurred the heaviest losses and most mortifying humiliations. They have borne the calamities of war without retorting them on its authors.

So far your Committee has presented to the view of the House the aggressions which have been committed under the authority of the British Government on the commerce of the United States. We will now proceed to other wrongs which have been still more severely felt. Among these is the impressment of our seamen, a practice which has been unceasingly maintained by Great Britain, in the wars to which she has been a party since our revolution. Your Committee cannot convey in adequate terms the deep sense which they entertain of the injustice and oppression of this proceeding. Under the pretext of impressing British seamen, our fellow citizens are seized in British ports, on the high seas, and in every other quarter to which the British power extends, are taken on board British men of war, and compelled to serve there as British subjects. In this mode our citizens are wantonly snatched from their country and their families, deprived of their liberty, and doomed to an ignominious and slavish bondage, compelled to fight the battles of a foreign country, and often to perish in them. Our flag has given them no protection; it has been unceasingly violated, and our vessels exposed to danger by the loss of the men taken from them. Your Committee need not remark, that while the practice is continued, it is impossible for the United States to consider themselves an independent nation. Every new case is a new proof of their degradation. Its continuance is the more unjustifiable, because the United States have repeatedly proposed to the British Government an arrangement, which would secure to it the controul of its own people. An exemption of the citizens of the United States from this degrading oppression, and their flag from violation, is all that they have sought.

This lawless waste of our trade, and equally unlawful impressment of our seamen, have been much aggravated by the insults and indignities attending

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them. Under the pretext of blockading the harbours of France and her allies, British squadrons have been stationed on our own coast, to watch and annoy our own trade. To give effect to the blockade of European ports, the ports and harbours of the United States have been blockaded. In executing these Orders of the British Government, or in obeying the spirit which was known to animate it, the commanders of these squadrons have encroached on our jurisdiction, seized our vessels, and carried into effect impressments within our limits, and done other acts of great injustice, violence, and oppression. The United States have seen, with mingled indignation and surprise, that these Acts, instead of procuring to the perpetrators the punishment due to unauthorised crimes, have not failed to recommend them to the favour of their Government.

Whether the British Government has contributed by active measures to excite against us the hostility of the savage tribes on our frontiers, your Committee are not disposed to occupy much time in investigating. Certain indications of general notoriety may supply the place of authentic documents; though these have not been wanting to establish the fact in some instances. It is known that symptoms of British hostility towards the United States have never failed to produce corresponding symptoms among those tribes. It is also well known that on all such occasions, abundant supplies of the ordinary munitions of war have been afforded by the agents of British commercial companies, and even from British garrisons, wherewith they were enabled to commence that system of savage warfare on our frontiers, which has been at all times indiscriminate in its effect, on all ages, sexes, and conditions, and so revolting to humanity.

Your committee would be much gratified, if they could close here the detail of British wrongs; but it is their duty to recite another act of still greater malignity than any of those which have been already brought to your view. The attempts to dismember our union, and overthrow our excellent constitution; by a secret mission, the object of which was to foment discontents and excite insurrection against the constituted authorities and laws of the nation, as lately disclosed by the agent employed in it; affords full proof that there is no bound to the hostility of the British Government towards the United States—no act, however unjustifiable, which it would not commit to accomplish their ruin. This attempt excites the greater horror, from the consideration that it was made while the United States and Great Britain were at peace, and an amicable negotiation was depending between them, for the accommodation of their differences, through public Ministers regularly authorised for the purpose.

The United States have beheld, with unexampled forbearance, this continued series of hostile encroachments on their rights and interests; in the hope, that, yielding to the force of friendly remonstrances, often repeated, the British Government might adopt a more just policy towards them; but that hope no longer exists. They have also weighed impartially the reasons which have been urged by the British Government in vindication of these encroachments, and found in them neither justification or apology.

The British Government has alleged, in vindication of the Orders in Council, that they were resorted to as a retaliation on France, for similar aggressions committed by her on our neutral trade with the British dominions. But how has this plea been supported? The dates of British and French aggressions are well known to the world. Their origin and progress have been marked with too wide and destructive a waste of the property of our fellow-citizens to have been forgotten. The Decree of Berlin, of November 21st, 1806, was the first aggression of France in the present war. Eighteen months had then elapsed after the attack made by Great Britain on our neutral trade with the colonies of France and her allies, and six months from the date of the proclamation of May 1806. Even on the 7th of January 1807, the date of the first British Order in Council, so short a time had elapsed, after the Berlin Decree, that it was hardly possible that the intelli-

gence of it should have reached the United States. A retaliation, which is to produce its effect by operating on a neutral power, ought not to be resorted to till the neutral had justified it by a culpable acquiescence in the unlawful act of the other belligerent. It ought to be delayed, until after sufficient time had been allowed to the neutral to remonstrate against the measure complained of, to receive an answer, and to act on it, which had not been done in the present instance; and when the Order of November 11th was issued, it is well known that a Minister of France had declared to the Minister Plenipotentiary of the United States at Paris, that it was not intended that the Decree of Berlin should apply to the United States. It is equally well known, that no American vessel had then been condemned under it, or seizure been made, with which the British Government was acquainted. These facts prove incontestibly, that the measures of France, however unjustifiable in themselves, were nothing more than a pretext for those of England. And of the insufficiency of that pretext, ample proof has already been afforded by the British Government itself, and in the most impressive form. Although it was declared, that the Orders in Council were retaliatory on France for her Decrees; it was also declared, and in the Orders themselves, that, owing to the superiority of the British navy, by which the fleets of France and her allies were confined within their own ports, the French Decrees were considered only as empty threats.

It is no justification of the wrongs of one power, that the like were committed by another; nor ought the fact, if true, to have been argued by either; as it could afford no proof of its love of justice, of its magnanimity, or even of its courage. It is more worthy the Government of a great nation to relieve than to assail the injured: Nor can a repetition of the wrongs by another power, repair the violated rights, or wounded honour, of the injured party. An utter inability alone to resist, would justify a quiet surrender of our rights, and degrading submission to the will of others. To that condition the United States are not reduced, nor do they fear it. That they ever consented to discuss with either power the misconduct of the other; is a proof of their love of peace, of their moderation, and of the hope which they still indulged that friendly appeals to just and generous sentiments would not be made to them in vain. But the motive was mistaken; if their forbearance was imputed, either to the want of a just sensibility to their wrongs, or of a determination, if suitable redress was not obtained, to resent them. The time has now arrived, when this system of reasoning must cease. It would be insulting to repeat it. It would be degrading to hear it. The United States must act as an independent nation; and assert their rights, and avenge their wrongs, according to their own estimate of them, with the party who commits them; holding it responsible for its own misdeeds unmitigated by those of another.

For the difference made between Great Britain and France, by the application of the Non-Importation Act against England only, the motive has been already too often explained, and is too well known to require further illustration. In the commercial restrictions, to which the United States resorted as an evidence of their sensibility, and a mild retaliation of their wrongs; they invariably placed both powers on the same footing, holding to each in respect to itself, the same accommodation, in case it accepted the condition offered, and in respect to the other, the same restraint if it refused. Had the British Government confirmed the arrangement, which was entered into with the British Minister in 1809, and France maintained her Decrees; with France would the United States have had to resist, with the firmness belonging to their character, the continued violation of their rights. The committee do not hesitate to declare, that France has greatly injured the United States, and that satisfactory reparation has not yet been made for many of those injuries; but that is a concern which the United States will look to and settle for themselves. The high character of the American people is a sufficient pledge to the world, that they will not fail to settle it on conditions which they have a right to claim.

More recently, the true policy of the British Government towards the United States has been completely unfolded. It has been publicly declared by those in power, that the Orders in Council should not be repealed, until the French Government had revoked all its internal restraints on the British commerce; and that the trade of the United States, with France and her allies, should be prohibited until Great Britain was also allowed to trade with them. By this declaration, it appears, that to satisfy the pretensions of the British Government, the United States must join Great Britain in the war with France; and prosecute the war until France should be subdued, for without her subjugation it were in vain to presume on such a concession. The hostility of the British Government to these States has been still further disclosed. It has been made manifest, that the United States are considered by it as the commercial rival of Great Britain, and that their prosperity and growth are incompatible with her welfare. When all these circumstances are taken into consideration, it is impossible for your committee to doubt the motives which have governed the British Ministry, in all its measures towards the United States, since the year 1805. Equally is it impossible to doubt, longer, the course which the United States ought to pursue towards Great Britain.

From this view of the multiplied wrongs of the British Government, since the commencement of the present war, it must be evident to the impartial world; that the contest, which is now forced on the United States, is radically a contest for their sovereignty and independence. Your committee will not enlarge on any of the injuries, however great, which have had a transitory effect. They wish to call the attention of the House to those of a permanent nature only; which intrench so deeply on our most important rights, and wound so extensively and vitally our best interests, as could not fail to deprive the United States of the principal advantages of their revolution, if submitted to. The controul of our commerce by Great Britain, in regulating it at pleasure, and expelling it almost from the ocean; the oppressive manner in which these regulations have been carried into effect, by seizing and confiscating such of our vessels, with their cargoes, as were said to have violated her edicts, often without previous warning of their danger; the impressment of our citizens from on board our own vessels, on the high seas, and elsewhere, and holding them in bondage until it suited the convenience of their oppressors to deliver them up; are encroachments, of that high and dangerous tendency, which could not fail to produce that pernicious effect, nor would those be the only consequences that would result from it. The British Government might, for awhile, be satisfied with the ascendancy thus gained over us, but its pretensions would soon increase. The proof, which so complete and disgraceful a submission to its authority would afford, of our degeneracy; could not fail to inspire confidence that there was no limit to which its usurpations, and our degradation, might not be carried.

Your committee, believing that the freeborn sons of America are worthy to enjoy the liberty, which their fathers purchased at the price of so much blood and treasure; and seeing, in the measures adopted by Great Britain, a course commenced and persisted in which might lead to a loss of national character and independence; feel no hesitation in advising resistance by force; in which the Americans of the present day will prove to the enemy and to the world, that we have not only inherited that liberty which our fathers gave us, but also the will and power to maintain it. Relying on the patriotism of the nation, and confidently trusting that the Lord of Hosts will go with us to battle in a righteous cause, and crown our efforts with success—your committee recommend an immediate appeal to arms.

No. 26.

Mr. Foster to Viscount Castlereagh.—Extract.

Washington, June 21st, 1812.

I HAVE this moment received an official communication from Mr. Monroe, of the existence of war between the two countries, and the cessation of my functions.

No. 27.

Mr. Foster to Viscount Castlereagh.—Extract.

Washington, June 24th, 1812.

I HAVE the honour to transmit to your Lordship, the inclosed copies of Mr. Monroe's letter to me, on communicating the proclamation of the President of the United States, consequent to the Act of Congress, declaring war between America and Great Britain, and of my answer; as also copies of a correspondence which took place between me and the American Secretary of State, relative to the footing on which His Majesty's packet boats would be admitted into the harbour of New York, as well as other public vessels which might arrive with dispatches for me after my departure; particularly that which was to convey to the United States the seamen belonging to the frigate Chesapeake.

Your Lordship will perceive, from Mr. Monroe's answer, that there is a bill before Congress containing regulations relative to these points.

I inclose also a minute, which I have made of a very important conversation, that I had with the President, and with Mr. Monroe, subsequent to the declaration of war.

(First Inclosure, referred to in No. 27.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, June 21st, 1812.

I HAVE the honour to communicate to you a proclamation of the President, making known the existence of a state of war between the United States and Great Britain.

In announcing to you this event which terminates your official relations with this Government, I will not withhold the expression of the respect and good wishes which you have personally inspired, and which are still extended to you.

I have the honour to be, &c.

(Signed)

JAMES MONROE.

A. J. Foster, Esq.

(Paper, referred to in First Inclosure of No. 27.)

By the President of the United States of America.

A PROCLAMATION.

WHEREAS the Congress of the United States, by virtue of the constituted authority vested in them, have declared by their act, bearing date the 18th day of the present month, that war exists between the United Kingdom of Great Britain and Ireland, and the dependencies thereof, and the United States of America, and their territories; now, therefore, I, James Madison, President of the United States of America, do hereby proclaim the same to all whom it may concern: and I do specially enjoin on all persons holding offices, civil or military, under the authority of the United States, that they be vigilant and zealous, in discharging the duties respectively incident thereto; and I do moreover exhort all the good people of the United States, as they love their country; as they value the precious heritage derived from the virtue and valour of their fathers; as they feel the wrongs which have forced on them the last resort of injured nations; and as they consult the best means, under the blessing of Divine Providence, of abridging its calamities; that they exert themselves in preserving order, in promoting concord, in maintaining the authority and the efficacy of the laws, and in supporting and invigorating all the measures which may be adopted by the constituted authorities, for obtaining a speedy, a just, and an honourable peace.

In testimony whereof, I have hereunto set my hand, and caused the seal of the United States to be affixed to these presents.

(L. S.)

Done at the City of Washington, the 19th day of June 1812, and of the independence of the United States the thirty-sixth.

(Signed)
By the President.
(Signed)

JAMES MADISON.

JAMES MONROE,
Secretary of State.

(Second Inclosure, referred to in No. 27.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, June 21st, 1812.

I HAVE had the honour to receive your letter of this day, in which you transmit to me enclosed, a copy of the President's proclamation, declaring a state of war to exist between the United States and Great Britain, and intimate to me, the consequent cessation of my diplomatic functions near the United States.

While I beg leave to assure you, that I am duly sensible to the flattering expressions in your letter, in allusion personally to myself, permit me, Sir, to regret the occasion which has produced them.

I request you will have the goodness to furnish me with the necessary passports, to enable me to proceed on my way to New York, to embark for England. I mean to set out on Tuesday, the 23d instant; you will much oblige me by sending them to me to-morrow.

Mr. Baker, His Majesty's Secretary of Legation, will remain behind, to see that the agreement relative to the restoration of the surviving seamen belong-

ing to the Chesapeake, shall be carried into full effect, and to wind up the affairs of the mission; and I propose leaving my steward and one or two more of my domestics, for the purpose of attending to my individual concerns, all of whom I have perfect confidence will be considered under the protection of the laws of nations.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Third Inclosure, referred to in No. 27.)

Mr. Foster to Mr. Monroe.

Sir,

Washington, June 20th, 1812.

I HAD the honour, yesterday, to acquaint you, verbally, with the circumstance of His Majesty's schooner *Bramble*, being on her way to Boston, with the two surviving seamen belonging to the *Chesapeake* frigate, who, it was stipulated, should be returned to that ship. I have reason to believe, that she will touch at New York, on her way to Boston, to communicate with me; and I have therefore to request of you to take the President's pleasure, as to whether she will be admitted to enter at those ports, and suffered to depart unmolested.

I should likewise be obliged to you, if you would inform me, whether His Majesty's packet boat, being a vessel conveying dispatches, and which is daily expected, will be admitted into New York, and allowed to depart unmolested, as it is probable I shall take my passage in the packet, unless a ship of war should be sent for me from Halifax. I should be much obliged to you for an early official assurance upon this subject.

I should also be obliged to you to inform me, whether, in consideration of the mutual advantage to be derived therefrom, to the mercantile part of the community in both countries, the packets will in future be allowed to pass freely by the American Government.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Fourth Inclosure, referred to in No. 27.)

Mr. Monroe to Mr. Foster.

Sir,

Department of State, June 21, 1812.

I HAVE had the honour to receive your letter of the 20th instant. Orders will be given to the Collectors of the ports of New York and Boston, and to the Commanders of the public armed vessels of the United States, to admit His Britannic Majesty's schooner the *Bramble*, into either of those ports with the surviving seamen who were taken from the *Chesapeake*, and to suffer her to depart without molestation. Similar orders will be given in favour of the British packet boat, which you intimate may be soon expected at the port of New York.

At this time no arrangement can be made for a regular communication between the two countries by packets. It will be sufficient to state, that whenever a packet arrives with a flag of truce from your Government, it will be permitted to enter and retire, observing always the regulations applicable to such cases.

I have the honour to transmit to you a passport for the person to whom you propose to commit your dispatches for your Government.

I have the honour to be, &c.

(Signed)

J. MONROE.

A. J. Foster, Esq.

(Fifth Inclosure, referred to in No. 27.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, June 21, 1812.

I have had the honour to receive your letter of this day's date.

Not having a clear and distinct conception of the footing on which His Majesty's packet boats would be, should they in future enter the harbour of New York with a flag of truce; permit me to ask you, whether by your expression, "observing always the regulations applicable to such cases," I am to understand that the letters which may be brought by the packets are to be delivered to an American officer, or if they may not be, as usual, received from the Captain of the packet, by the agent for packet boats at New York.

The accommodation, as I conceive, must be mutual to both nations, if the agent were to be allowed to continue receiving the mail as usual, but I fear that any other arrangement would render it impracticable to continue the intercourse.

I beg to observe, that in the case of the war declared by Sweden against Great Britain, the communication by packet boats was not interrupted, as being convenient to individuals in both countries; and it would certainly seem to be much more a matter of convenience to the subjects and citizens of two countries, whose commercial relations have been so long and so intimately connected.

Allow me to request from you, Sir, an early reply on this point, as my departure will be so immediate.

I have now to ask, whether a schooner, as it appears, named the *Whiting*, in the service of His Majesty, which is said in the public papers to be on her way here with dispatches to me, and a King's messenger on board, will be allowed to enter the port of the United States to which she may be bound.

As it is possible that the *Bramble* schooner may not be the vessel which will convey to Boston the two men to be restored to the *Chesapeake*, but some other may be dispatched by the Admiral in lieu of her, I trust this will make no difference in the permission to enter the American port.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Sixth Inclosure, referred to in No. 27.)

Mr. Monroe to Mr. Foster.

SIR,

Department of State, June 22, 1812.

I have just had the honour to receive your letter of the 21st instant.

A bill is said to be depending before the Congress, which will provide for the case of packet boats which may sail before a knowledge of the late event reaches England. The regulations which might be made by law on that subject were those to which I alluded in my last letter. The letters which may in the interim be brought by a packet, may be delivered to any person you may designate, not as a public agent, but as a private individual.

The arrangement in favour of the Bramble, of which you have been apprized, will be extended to any other vessel which may be employed in the service for which it is understood she was designated.

I have the honour to be, &c.

(Signed)

J. MONROE,

A. J. Foster, Esq.

(Seventh Inclosure, referred to in No. 27.)

Mr. Foster to Mr. Monroe.

SIR,

Washington, June 21, 1812.

Permit me to inquire on what footing the Gentlemen, who have hitherto acted as His Majesty's Consuls in this country, will henceforth be, as well as all other of His Majesty's Subjects in the United States?

The period of time allowed to individuals of a nation with which another nation is at war, to remain within that country, seems to have been different in different States. Instances, however, appear to have occurred, and particularly in England, where it has been extended until the restoration of peace took place.

I should be extremely obliged to you, Sir, if you could give me an early answer on this point. The person whom I should wish to designate for receiving the letters, which may come by His Majesty's packet boats, is Mr. John P. Newman, who has of late acted as Deputy Agent of the packet boats.

I have the honour to be, &c.

(Signed)

A. J. FOSTER.

The Hon. James Monroe.

(Eighth Inclosure, referred to in No. 27.)

Minute of Conversation.

Washington, June 23, 1812.

HAVING ascertained that the President would be pleased, if I called to take leave of him previous to my departure; I had the honour of waiting upon him on the 23d of June, when, after some conversation on different topics, Mr. Madison expressed his regret at the situation in which the two countries were placed, and his sincere desire to see the causes removed. Mr. Foster joined with him in the regret. The President entered into a good deal of explanation as to the declaration of war; he observed, upon the embarrassments created to the Executive branch in America, on a question of war, as the Act of Congress was specified, and allowed of no modifications; wishing, as it appeared, to give it to be understood, that his desire was to avoid as much as possible, pushing matters to extremity, although he did not well see how it could be avoided. I observed, upon the danger there was of collision at sea; and, in particular, of the danger there was a few days back of two American frigates, which sailed from the Chesapeake before the declaration of war, meeting His Majesty's ships Tartarus and Belvidera, which were reported to be off New York. The President then observed, he had not thought the former would have arrived from the Chesapeake, at New York so soon; he had not thought the wind was favourable at the time they sailed. The conversation fell a good deal upon the possibility of a change of measures in England, grounded on the late news. I asked, if the Orders in Council were revoked,

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would peace be restored? Mr. Madison said, if the Orders in Council were revoked, and a promise of negotiation given on the question of impressment, it would suffice; that we could not, perhaps, do more on the latter at present, than offer to negotiate. I observed, the latter did not form a prominent feature in the late discussions, and urged that a mistake in knowing the views of each other, would create three months delay; and wished to know if an immediate armistice would be produced. The President talked much of the responsibility on the Executive, that he would do what would best consult his duty. I asked how long Congress would sit. The President said ten days or a fortnight; and that, if the Orders were revoked in that time, they would certainly take some step in consequence. On some expressions of his, I asked if there was no danger of any of the American officers undertaking some measure which might further commit the two countries. He said no measures would be taken but for defence.

In talking of neutrals, I observed, perhaps there would be no further occasion for the Orders in Council, now that scarce a neutral remained. The President seemed to acquiesce. He did not know if Portugal were considered neutral: asked if the treaty between England and Portugal were offensive and defensive. I said not against America, as I was convinced. I asked if Spain would be considered neutral; and here the President expressed his idea, that secret articles might exist between Spain and England, and seemed willing to understand, that Spain would be obliged to make common cause with England, in the war against America. I put him in mind of Mr. Monroe's former expressions, relative to Mr. Wellesley's having urged the Cortes to war with America, that I had reported home those expressions of Mr. Monroe, and had been enabled afterwards most decidedly to contradict them. On my again pressing the subject of expeditions, which might be undertaken by the United States' Government (having allusion to Florida); the President observed, the Executive could not well be justified in stopping any expeditions, which might have been undertaken at a time, when, perhaps alone, they would be successful. It seemed, indeed, evident that he was decided to take Florida if he could, and for purposes of defence, that something elsewhere might be done, probably, Fort Malden taken. I observed, that the Bramble was expected, with the seamen taken from the Chesapeake; and that Mr. Baker would see that arrangement carried into complete execution, remaining here with that view as had been agreed on. Mr. Baker then said, Mr. Monroe had, he understood, communicated to the President what had passed relative to his (Mr. Baker's) remaining behind, to which the President replied that he had.

I went with Mr. Baker afterwards to Mr. Monroe's office, where I had some conversation with the Secretary of State. Mr. Monroe said, the United States officer's orders were confined to the marine league: I could scarcely get him to speak on the subject of Florida, though I expressed my hopes they would not commence hostilities in that quarter.

I wanted Mr. Monroe distinctly to state, whether, if the Orders in Council were revoked, (which, however, he could say nothing about, believing the contrary) the war would cease? Mr. Monroe declined saying positively, it would be the case, on the grounds of not fully knowing the President's intentions.

Mr. Monroe agreed to see Mr. Baker as often as he pleased; and said he would be glad if I should hear any thing in the way of news from London, materially to affect the United States, that I would communicate to him by letter. I promised to communicate with him in that case through Mr. Baker.

Both Mr. Madison, and Mr. Monroe, left the impression with me, that should the Orders in Council be revoked, while Congress was in Session, hostilities would be suspended on the part of America. I urged repeatedly, the good policy of at once suspending all hostility by agreement, until further intelligence should be received from Great Britain; as the President being only authorised by the Act of Congress, but not directed to carry on the war,

it would seem that he might, if it so pleased him, have suspended all military and naval operations ; and, I engaged, on my own responsibility, for Vice Admiral Sawyer's observing the armistice in such ease. I could, however, obtain no satisfactory answer to this proposition, although I was assured by Mr. Monroe, in the most decided manner, that the marine league would be as much as possible the limits of the operations of the United States' navy. The chief objection of the American Government to enter into such agreement was, that there did not appear at present any certainty of the Orders in Council being repealed.

(Signed)

A. J. FOSTER.

No. 28.

(Communication from Mr. Foster to Viscount Castlereagh, August 21, 1812.)

Mr. Baker to Mr. Foster.—Extract.

Washington, July 5, 1812.

I HAVE sent you enclosed, a minute of a conversation which I have had with Mr. Monroe, and which will answer all the material points, about which you wished me to speak to him.

(Paper referred to in No. 28.)

Minute of Conversation.

Washington, July 3, 1812.

I INQUIRED of Mr. Monroe, whether it was in contemplation that any measure should be proposed in Congress, previously to their adjournment, with a view to providing the means of a restoration of a good understanding between the two countries. Mr. Monroe replied, that Congress would meet in November; that the President had, by the constitution, full authority to take any preparatory step towards peace, such as concluding an armistice, and thus putting a stop to hostilities, and giving powers to a person to commence a negotiation; that he could summon the Senate if necessary, or take any measure upon himself, waiting for the ratification of the Senate when they should meet in November; that even if the Senate refused to ratify his measure, then the object of a stop having been put to hostilities, would nevertheless have been gained, and any new step could then be taken, as they would be in Session. In what Mr. Monroe said on this head, however, a repeal of the Orders in Council, was always to be kept in view.

(Signed)

ANT. ST. JOHN BAKER.

No. 29.

*Mr. Baker to Viscount Castlereagh.—(Extract.)**Washington, July 17, 1812.*

THE first act of hostility on the part of the United States has been committed, by an attack made on the 23d ultimo, by one of the American frigates, upon His Majesty's ship *Belvidere*, the remainder of the American squadron being in sight. The earliest accounts of this event, which were brought by merchant ships, were very confused and contradictory. The most correct were those derived from the midshipman and seamen who came in the American ship *Pickering*, which vessel having been taken by the *Belvidere*, after the action, was recaptured by part of her original crew, assisted by some of the British seamen, and brought by them on the 6th instant into the port of Gloucester, in the State of Massachusetts. His Majesty's brig *Colibri*, which arrived at Sandy Hook, on the 9th instant, with dispatches for Mr. Foster, and in which he sailed for Halifax on the 11th, accompanied by Consul-General Barclay, confirmed the principal facts stated by the crew of the *Pickering*. It will be unnecessary to notice the imperfect details of this encounter, further than by referring your Lordship to the numbers of the *National Intelligencer*, which will accompany these dispatches, as Admiral Sawyer will, no doubt, have transmitted an official statement of the occurrence to the Admiralty. No accounts have been received from Commodore Rodgers since he sailed.

Upon conversing with Mr. Monroe on this subject, I found that he regretted very much that Commodore Rodgers had sailed before the receipt of some orders, which arrived at New York soon after he had left that port. These orders, would, he said, have restricted him in his cruise, and prevented him from going beyond a certain distance from the coast, which Mr. Monroe intimated would not have exceeded the marine league. Upon my saying that the prompt departure of the American squadron, and the accounts which were received here soon after, and credited by many, that it had succeeded in capturing a British frigate, and had immediately afterwards, as it was understood, gone in quest of the Jamaica homeward-bound fleet—connected with the circumstance of a force being on its way to Detroit, with the supposed object of attacking Fort Malden; had induced me to suppose that the views of the United States, as stated to Mr. Foster, had undergone some change, and that active hostilities were about to be resorted to: he replied, that the American Government still entertained the same pacific sentiments, and that all steps which would have the effect of creating irritation, and increasing the obstacles in the way of a restoration of peace between the two countries, would, as much as possible, be avoided: that, however, as war existed, something must be left to the course of events, and that the Executive would not be justified, under present circumstances, in interfering to check them in any decided manner; that Commodore Rodgers had sailed, in a great measure, from his own impulse, on hearing of the declaration of war, and that he was in possession of no specific orders at the time he left New York.

No. 23.

*Mr. Baker to Viscount Castlereagh.—(Extract.)**Washington, July 23, 1812.*

THE surviving seamen who were taken out of the *Chesapeake* frigate, were delivered up on board that vessel, in Boston Harbour, on the 11th instant, by Lieutenant Simpson, the commander of His Majesty's schooner, "*Bream*." One of the certificates given on the occasion by the officer of the United States, has been forwarded to me.

No. 31.

Mr. Baker to Viscount Castlereagh.

MY LORD,

Washington, July 25th, 1812.

In my dispatch of the 23d instant, which went by the Messenger Schaw, who left Washington on the night of that day, to embark at Annapolis in His Majesty's gun brig, Bloodhound, for England, I could do little more than acquaint your Lordship with the arrival of the United States' sloop of war, Wasp, with dispatches from France. I have since seen Mr. Monroe, and had an opportunity of conversing with him, on the present, as well as probable relations between the United States and that Power.

The first, it seems, cannot well bear a more unpromising aspect. No arrangement had been concluded between Mr. Barlow and the French Government, and the departure of Buonaparte for his army on the frontiers of Russia, would create obstructions to the further progress of the discussions. Mr. Monroe assured me, that Mr. Barlow's negotiation would be still confined to two points; the placing the American commerce upon an equitable footing, and the procuring indemnification for the depredations which had been committed upon it; that the chance of succeeding was very small, but the United States wished to exhaust every means of negotiation, so as to make the injustice of France apparent to her own people, to that of the United States, and to the world at large. With respect to the burning of American ships, by the French squadrons, he expressed, as he has at all times done, great indignation, but said that there had not been time as yet to learn the answer to the demand of reparation which would be made upon the French Government on this particular point. The strongest promises and assurances still continued to be held out to Mr. Barlow.

He reminded me of the conversations which had passed at the beginning of last winter, between himself and Mr. Foster; and repeated that, had the British Government acceded to the wishes of America, a very decided attitude would have been assumed against France, laying greater stress than it appeared susceptible of, on the moral effect which an unjust war with America would at any time produce upon the people of France, particularly in conjunction with the more active hostility of the Northern Powers.

The Declaration of war against England, he distinctly said, would not affect the relations with France; that no approximation between the United States and that power was in contemplation, and that feelings existed here, in the present state of things, of a contrary tendency.

I asked, if France acceded to what was required of her by the United States, if any connection might in consequence then ensue with her? He replied in the negative; that what the United States demanded of her was justice, and that no stipulation would be made to obtain it; that when obtained, the relations of the two countries would only assume a character of amity, and that no closer connection was desired.

I transmit the account of what Mr. Monroe said on this subject, with the single remark, that his assurances were, perhaps, conveyed to him in stronger language, in consequence of the probability of an alliance with Buonaparte, being made use of as one great argument against the present war, and of the assertions that such an event would occur; the prevalence of which opinions, particularly to the eastward, has induced this Government to take all occasions of making declarations to the contrary, as they are well aware in what an odious light such a measure would be generally considered.

Mr. Monroe, in the course of the conversation, in which he introduced a retrospect relative to the Orders in Council and French Decrees, with which it is unnecessary to trouble your Lordship, informed me that the Government of the United States were not acquainted with the late French Decree, repealing those of Berlin and Milan, until communicated by Mr. Barlow, and that he had not seen Mr. Serrurier since the receipt of the intelligence. He agreed with me, that if the Decree in question was antedated, which there

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were the strongest grounds for supposing, it was a proceeding in the highest degree disgraceful to the French Government.

I have the honour to be, &c.

ANTHONY ST. JOHN BAKER.

*Viscount Castlereagh,
&c. &c. &c.*

No. 32.

Mr. Baker to Viscount Castlereagh.—(Extract.)

Washington, July 26, 1812.

I HAVE the honour to transmit inclosed to your Lordship, a copy of the letter which I sent to the American Secretary of State, notifying to him the honourable completion of that part of the arrangement relative to the Chesapeake frigate, which consisted in the delivery up of the surviving seamen; and professing my readiness, as Mr. Foster had already done, to take the necessary steps respecting the pecuniary provision to be afforded to the sufferers, in consequence of the attack upon that vessel.

I likewise have the honour to inclose the copy of another letter to Mr. Monroe, in which I forwarded to him the particulars relating to the applications made in behalf of several persons, who had been claimed as American seamen, which were furnished by some of your Lordship's late dispatches to Mr. Foster, by letters from Admiral Sawyer, and by one from Mr. Barrow to Mr. Barclay, which had been sent to me. These particulars I lost no time in transmitting, for the information of the persons interested in the cases of the individuals mentioned; and as a proof of the ready attention which had been paid at all times to such applications.

These two letters were sent at first without a signature, as I had not an opportunity of seeing Mr. Monroe immediately before writing them, and wished to ascertain from him, previously to their being given in, whether he had any objection to receiving communications from me in that shape, which he has informed me he has not, and that he will take the first opportunity of returning me an answer to them.

(First Inclosure, referred to in No. 32.)

Mr. Baker to Mr. Monroe.

SIR,

Washington, July 20th, 1812.

I HAVE the honour to acquaint you, that the surviving seamen who were taken out of the Chesapeake frigate, were on the 11th instant, in pursuance of the stipulation made by Mr. Foster, restored to that vessel in the harbour of Boston, as appears from one of the certificates given on this occasion by Lieutenant Wilkinson, of the United States' navy, which has been transmitted to me.

In communicating to you the honourable completion of this essential part of the terms of reparation, which were offered and accepted for the adjustment of this affair, I beg leave to inform you, that I shall be ready, at any time you may think proper to appoint, to take the necessary steps, by virtue of authority which has been given to me by Mr. Foster for that purpose, respecting the pecuniary provision to be furnished to the sufferers, in consequence of the attack on the Chesapeake, as mentioned in the third proposition contained in Mr. Foster's letter to you of November 1st, 1811.

I have the honour to be, &c.

(Signed)

ANTHONY ST. J. BAKER.

The Hon. James Monroe.

(Second Inclosure, referred to in No. 32.)

Mr. Baker to Mr. Monroe.

SIR,

Washington, July 21st, 1812.

I HAVE the honour to inform you that, by letters which I have lately received, addressed to Mr. Foster, in answer to applications made by him for the discharge from His Majesty's service of several seamen claimed as citizens of the United States, that Iaber Choat was permitted to leave His Majesty's ship *Africa* at Halifax, in the fall of last year; and that Alexander Hodgkins was discharged on May 22, 1812, at Halifax, and proceeded on that day for the United States. The *Guerriere*, on board of which vessel Jacob Freeman was supposed to be, being at sea at the date of Vice Admiral Sawyer's letter, he had promised to pay immediate attention to his case on her return into port.

By a communication from the Lords Commissioners of the Admiralty, it appeared that no such person as Philip Read Copper, an American, is on board of His Majesty's ship *Bacchante*, to which the crew of the *Eurydice* were turned over.

In another report from the Lords of the Admiralty, it is stated that Richard M. Sydnor was ordered to be discharged from the *Narcissus*, on January 29, 1812, and that the case of Alexander McPherson was under inquiry, the result of which has not yet been ascertained.

By a letter from Mr. Barrow, written by command of the Lords of the Admiralty to Mr. Barclay, His Majesty's Consul General at New York, it appears that Thomas Denike alias Skedgell, an American, had been discharged from the *Alemene*.

I take the earliest opportunity of transmitting to you these particulars, as they will not fail to be interesting to the persons concerned in the situations of the individuals above-mentioned. It is, I am sure, unnecessary, Sir, particularly to point out the ready attention which has been paid in these instances, as well as in other similar ones, to the applications which have been made on these subjects.

I have the honour to be, &c.

(Signed)

ANTHONY ST. J. BAKER.

The Hon. James Monroe.

No. 33.

Mr. Baker to Viscount Castlereagh.

MY LORD,

Washington, August 24th, 1812.

HAVING considered it of great importance, that an early communication should be made to this Government, of the disavowal, on the part of His Majesty's Government, of any knowledge of the nature of the mission upon which Mr. Henry was employed by Sir James Craig, until several months after the whole was terminated, and of the explicit declaration, that no authority or instructions had ever been given by His Majesty's Government to Sir James Craig, to send a mission, of the description alluded to, into the United States, together with the full and satisfactory explanations on the subject contained in your Lordship's dispatch of the 7th of May, to Mr. Foster; I took the first favourable opportunity after Mr. Monroe's return to Washington, to wait upon him expressly for this purpose, when I made the communication in question, by reading to him very copious extracts from your Lordship's dispatch, which I repeated twice, at his request, that he might be better acquainted with the particulars, for the President's information.

I am happy to say, that, in a conversation, which ensued, Mr. Monroe seemed fully impressed with the force of what had been stated, and confined his observations to the propriety of Sir James Craig, employing any person to procure information for him, which I endeavoured to shew was rendered necessary by a due regard for the security of the Province entrusted to his charge, under the menacing attitude which had been taken by the United States, connected with the declaration made by the American Secretary of State to Mr. Erskine.

I beg leave to express my humble hope, that the step I have been induced to take in making this communication, may meet with the most gracious approbation of His Royal Highness the Prince Regent, as it will not preclude, in the event of a restoration of peace with the United States, any official and formal notice of the subject, and as it appeared in the highest degree desirable to remove, as early as possible, any unfavourable impressions which might exist on the part of the American Government, and, at the same time, to vindicate His Majesty's Government from the aspersions which had been so unjustly and precipitately cast upon its character.

I have the honour to be, &c.

(Signed)

ANT. ST. J. BAKER.

*Viscount Castlereagh,
&c. &c. &c.*

(America.)

Declaration
of
The British Government.

9 January 1813.



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DECLARATION.

THE earnest endeavours of the Prince Regent to preserve the relations of peace and amity with the United States of America having unfortunately failed, His Royal Highness, Acting in the name and on the behalf of His Majesty, deems it proper publicly to declare the causes, and origin of the war, in which the Government of the United States has compelled Him to engage.

No desire of conquest, or other ordinary motive of aggression has been, or can be with any colour of reason, in this case, imputed to Great Britain: That her commercial interests were on the side of peace, if war could have been avoided, without the sacrifice of her maritime rights, or without an injurious submission to France, is a truth which the American Government will not deny.

His Royal Highness does not however mean to rest on the favourable presumption, to which He is entitled. He is prepared by an exposition of the circumstances which have led to the present war, to show that Great Britain has throughout acted towards the United States of America, with a spirit of amity, forbearance, and conciliation; and to demonstrate the inadmissible nature of those pretensions, which have at length unhappily involved the two countries in war.

It is well known to the world, that it has been the invariable Object of the Ruler of France, to destroy the power and independence of the British Empire, as the chief obstacle to the accomplishment of his ambitious designs.

He first contemplated the possibility of assembling such a naval force in the Channel as, combined with a numerous flotilla, should enable him to disembark in England an army sufficient, in his conception, to subjugate this country; and through the conquest of Great Britain he hoped to realize his project of universal empire.

By the adoption of an enlarged and provident system of internal defence, and by the valour of His Majesty's fleets and armies, this design was entirely frustrated; and the naval force of France, after the most signal defeats, was compelled to retire from the ocean.

An attempt was then made to effectuate the same purpose by other means: a System was brought forward, by which the Ruler of France hoped to annihilate the commerce of Great Britain, to shake her public Credit, and to destroy her Revenue; to render useless her maritime Superiority, and so to avail himself of his continental ascendancy, as to constitute himself in a great measure the arbiter of the ocean, notwithstanding the destruction of his fleets.

With this view, by the Decree of Berlin, followed by that of Milan, he declared the British territories to be in a state of blockade; and that all Commerce, or even correspondence with Great Britain was prohibited. He decreed that every vessel and cargo, which had entered, or was found proceeding to a British port, or which, under any circumstances, had been visited by a British ship of war, should be lawful prize: he declared all British goods and produce, wherever found, and however acquired, whether coming from the Mother Country or from her colonies, subject to confiscation: he further declared to be denationalized, the flag of all neutral ships that should be found offending against these his Decrees: and he gave to this project of universal Tyranny, the name of the Continental System.

For these attempts to ruin the commerce of Great Britain, by means subversive of the clearest rights of neutral nations, France endeavoured in vain to rest her justification upon the previous conduct of His Majesty's Government.

Under circumstances of unparalleled provocation, His Majesty had abstained from any measure, which the ordinary rules of the Law of Nations did not fully warrant. Never was the maritime superiority of a Belligerent over his enemy, more complete and decided. Never was the opposite Belligerent so formidably dangerous in his power, and in his policy to the liberties of all other nations. France had already trampled so openly and systematically on the most sacred rights of Neutral Powers, as might well have justified the placing her out of the pale of civilized nations. Yet in this extreme case, Great Britain had so used her naval ascendancy, that her enemy could find no just cause of complaint: and in order to give to these lawless decrees the appearance of retaliation, the Ruler of France was obliged to advance principles of maritime law unsanctioned by any other authority, than his own arbitrary will.

The pretenses for these Decrees were, first, that Great Britain had exercised the rights of war against private persons, their ships and goods; as if the only object of legitimate hostility on the ocean were the public property of a State, or as if the Edicts, and the Courts of France itself had not at all times enforced this right with peculiar rigour; secondly, that the British orders of blockade, instead of being confined to fortified towns, had, as France asserted, been unlawfully extended to commercial towns and ports, and to the mouths of rivers; and thirdly, that they had been applied to places, and to coasts, which neither were, nor could be actually blockaded. The last of these charges is not founded on fact, whilst the others, even by the admission of the American Government, are utterly groundless in point of law.

Against these Decrees, His Majesty protested and appealed; He called upon the United States to assert their own rights, and to vindicate their independence, thus menaced and attacked; and as France had declared, that she would confiscate every vessel, which should touch in Great Britain, or be visited by British ships of war, His Majesty, having previously issued the Order of January 1807, as an act of mitigated retaliation, was at length compelled, by the persevering violence of the enemy, and the continued acquiescence of Neutral Powers, to revisit, upon France, in a more effectual manner, the measure of her own injustice; by declaring, in an Order in Council, bearing date the 11th of November 1807, that no neutral vessel should proceed to France or to any of the countries from which, in obedience to the dictates of France, British commerce was excluded, without first touching at a port in Great Britain, or her dependencies. At the same time His Majesty intimated His readiness to repeal the Orders in Council, whenever France should rescind her Decrees, and return to the accustomed principles of maritime warfare; and at a subsequent period, as a proof of His Majesty's sincere desire to accommodate, as far as possible, His defensive measures to the convenience of Neutral Powers, the operation of the Orders in Council was, by an order issued in April 1809, limited to a blockade of France, and of the countries subjected to her immediate dominion.

Systems of violence, oppression, and tyranny, can never be suppressed, or even checked, if the Power against which such injustice is exercised, be debarred from the right of full and adequate retaliation: or, if the measures of the retaliating Power, are to be considered as matters of just offence to neutral nations, whilst the measures of original aggression, and violence are to be tolerated with indifference, submission, or complacency.

The Government of the United States did not fail to remonstrate against the Orders in Council of Great Britain. Although they knew, that these Orders would be revoked, if the Decrees of France, which had occasioned them, were repealed, they resolved at the same moment to resist the conduct of both Belligerents, instead of requiring France in the first instance to rescind her Decrees. Applying most unjustly the same measure of resentment to the aggressor, and to the party aggrieved, they adopted measures of commercial resistance against both—a system of resistance, which, however varied in the successive Acts of Embargo, Non-Intercourse, or Non-Importation, was evidently unequal in its operation, and principally levelled against the superior commerce, and maritime power of Great Britain.

The same partiality towards France was observable, in their negotiations, as in their measures of alledged resistance.

Application was made to both Belligerents for a revocation of their respective edicts; but the terms in which they were made, were widely different.

Of France was required a revocation only of the Berlin and Milan Decrees, although many other edicts, grossly violating the neutral commerce of the United States had been promulgated by that Power. No security was demanded, that the Berlin and Milan Decrees, even if revoked, should not under some other form be re-established: and a direct engagement was offered, that upon such revocation, the American Government would take part in the war against Great Britain, if Great Britain did not immediately rescind her Orders.—Whereas no corresponding engagement was offered to Great Britain, of whom it was required, not only that the Orders in Council should be repealed, but that no others of a similar nature should be issued, and that the blockade of May 1806, should be also abandoned. This blockade established and enforced according to accustomed practice, had not been objected to by the United States at the time it was issued. Its provisions were on the contrary represented by the American Minister resident in London at the time, to have been so framed, as to afford in his judgment, a proof of the friendly disposition of the British Cabinet towards the United States.

Great Britain was thus called upon to abandon one of her most important maritime rights; by acknowledging the Order of blockade in question, to be one of the edicts, which violated the commerce of the United States, although it had never been so considered in the previous negotiations;—and although the President of the United States had recently consented to abrogate the Non-Intercourse Act, on the sole condition of the Orders in Council being revoked; thereby distinctly admitting these orders to be the only edicts, which fell within the contemplation of the law, under which he acted.

A proposition so hostile to Great Britain could not but be proportionably encouraging to the pretensions of the enemy. As by thus alledging that the blockade of May 1806, was illegal, the American Government virtually justified, so far as depended on them, the French Decrees.

After this proposition had been made, the French Minister for Foreign Affairs, if not in concert with that Government, at least in conformity with its views, in a dispatch, dated the 5th of August 1810, and addressed to the American Minister resident at Paris, stated that the Berlin and Milan Decrees were revoked, and that their operation would cease from the 1st day of November following, provided His Majesty would revoke his Orders in Council, and renounce the new principles of blockade; or that the United States would cause their rights to be respected; meaning thereby, that they would resist the retaliatory measures of Great Britain.

Although the repeal of the French Decrees thus announced was evidently contingent, either on concessions to be made by Great Britain, (concessions to which it was obvious Great Britain could not submit,) or on measures to be adopted by the United States of America; the American President at once considered the repeal as absolute. Under that pretence the Non-Importation Act was strictly enforced against Great Britain, whilst the ships of war, and merchant ships of the enemy were received into the harbours of America.

The American Government, assuming the repeal of the French Decrees to be absolute, and effectual, most unjustly required Great Britain, in conformity to her declarations, to revoke her Orders in Council. The British Government denied that the repeal, which was announced in the letter of the French Minister for Foreign Affairs, was such as ought to satisfy Great Britain; and in order to ascertain the true character of the measure adopted by France, the Government of the United States was called upon to produce the Instrument, by which the alledged repeal of the French Decrees had been effected. If these Decrees were really revoked, such an instrument must exist, and no satisfactory reason could be given for withholding it.

At length, on the 21st of May 1812, and not before, the American Minister in London did produce a copy, or at least what purported to be a copy of such an instrument.

It professed to bear date the 28th of April 1811, long subsequent to the dispatch of the French Minister of Foreign Affairs of the 5th of August 1810, or even the day named therein viz. the 1st November following, when the operation of the French Decrees was to cease. This instrument expressly declared that these French Decrees were repealed in consequence of the American Legislature having, by their Act of the 1st March 1811, provided, that British ships and merchandise should be excluded from the ports and harbours of the United States.

By this instrument, the only document produced by America as a repeal of the French Decrees, it appears beyond a possibility of doubt or cavil, that the alledged repeal of the French Decrees was conditional, as Great Britain had asserted; and not absolute or final, as had been maintained by America: that they were not repealed at the time they were stated to be repealed by the American Government: that they were not repealed in conformity with a proposition, simultaneously made to both Belligerents, but in consequence of a previous Act on the part of the American Government, in favour of one Belligerent, to the prejudice of the other: that the American Government having adopted measures restrictive upon the commerce of both Belligerents, in consequence of Edicts issued by both, rescinded these measures, as they affected that Power, which was the aggressor, whilst they put them in full operation against the party aggrieved; although the Edicts of both powers continued in force; and lastly that they excluded the ships of war, belonging to one Belligerent, whilst they admitted into their ports and harbours the ships of war belonging to the other, in violation of one of the plainest, and most essential duties of a Neutral Nation.

Although the Instrument thus produced was by no means that general and unqualified revocation of the Berlin and Milan Decrees, which Great Britain had continually demanded, and had a full right to claim; and although this Instrument, under all the circumstances of its appearance at that moment, for the first time, was open to the strongest suspicions of its authenticity; yet as the Minister of the United States produced it, as purporting to be a copy of the Instrument of revocation, the Government of Great Britain, desirous of reverting, if possible, to the ancient and accustomed principles of Maritime War, determined upon revoking conditionally the Orders in Council. Accordingly in the month of June last, His Royal Highness the Prince Regent was pleased to declare in Council, in the name and on the behalf of His Majesty, that the Orders in Council should be revoked, as far as respected the ships and property of the United States from the 1st of August following. This revocation was to continue in force provided the Government of the United States should, within a time to be limited, repeal their Restrictive Laws against British commerce. His Majesty's Minister in America was expressly ordered to declare to the Government of the United States, that "this measure had been adopted by the Prince Regent in the earnest wish and hope, either that the Government of France, by further relaxations of its system, might render perseverance on the part of Great Britain in retaliatory measures unnecessary, or if this hope should prove delusive, that His Majesty's Government might be enabled, in the absence of all irritating and restrictive regulations on either side, to enter with the Government of the United States into amicable explanations, for the purpose of ascertaining whether, if the necessity of retaliatory measures should unfortunately continue to operate, the particular measures to be acted upon by Great Britain, could be rendered more acceptable to the American Government, than those hitherto pursued."

In order to provide for the contingency of a Declaration of War on the part of the United States, previous to the arrival in America of the said Order of Revocation, Instructions were sent to

His Majesty's Minister Plenipotentiary accredited to the United States (the execution of which instructions, in consequence of the discontinuance of Mr. Foster's functions, were at a subsequent period entrusted to Admiral Sir John Borlase Warren), directing him to propose a cessation of hostilities, should they have commenced; and further to offer a simultaneous repeal of the Orders in Council on the one side, and of the Restrictive Laws on British ships and commerce on the other.

They were also respectively empowered to acquaint the American Government, in reply to any inquiries with respect to the blockade of May 1806, whilst the British Government must continue to maintain its legality, "that in point of fact this particular Blockade had been discontinued for a length of time, having been merged in the general retaliatory blockade of the enemy's ports under the Orders in Council, and that His Majesty's Government had no intention of recurring to this, or to any other of the blockades of the enemy's ports, founded upon the ordinary and accustomed principles of Maritime Law, which were in force previous to the Orders in Council, without a new notice to Neutral Powers in the usual form."

The American Government, before they received intimation of the course adopted by the British Government, had in fact proceeded to the extreme measure of declaring war, and issuing "Letters of Marque," notwithstanding they were previously in possession of the Report of the French Minister for Foreign Affairs, of the 12th of March, 1812, promulgating anew the Berlin and Milan Decrees, as fundamental laws of the French Empire, under the false and extravagant pretext, that the monstrous principles therein contained were to be found in the treaty of Utrecht, and were therefore binding upon all States. From the penalties of this Code no nation was to be exempt, which did not accept it, not only as the rule of its own conduct, but as a law, the observance of which, it was also required to enforce upon Great Britain.

In a Manifesto, accompanying their Declaration of Hostilities, in addition to the former complaints against the Orders in Council, a long list of grievances was brought forward; some trivial in themselves, others which had been mutually adjusted, but none of them such, as were ever before alledged by the American Government to be grounds for war.

As if to throw additional obstacles in the way of peace, the American Congress at the same time passed a law, prohibiting all intercourse with Great Britain, of such a tenor, as deprived the Executive Government, according to the President's own construction of that Act, of all power of restoring the relations of friendly intercourse between the two States, so far at least as concerned their commercial Interchange, until Congress should re-assemble.

The President of the United States has, it is true, since proposed to Great Britain an Armistice; not, however, on the admission, that the cause of war hitherto relied on was removed; but on condition, that Great Britain, as a preliminary step, should do away a cause of war, now brought forward as such for the first time; namely, that she should abandon the exercise of her undoubted right of search, to take from American merchant vessels British seamen, the natural-born subjects of His Majesty; and this concession was required upon a mere assurance that laws would be enacted by the Legislature of the United States, to prevent such seamen from entering into their service; but independent of the objection to an exclusive reliance on a Foreign State, for the conservation of so vital an interest, no explanation was, or could be afforded by the Agent who was charged with this overture, either as to the main principles, upon which such laws were to be founded, or as to the provisions which it was proposed they should contain.

This proposition having been objected to, a second proposal was made, again offering an Armistice, provided the British Government would secretly stipulate to renounce the exercise of this right in a Treaty of Peace. An immediate and formal abandonment of its exercise, as preliminary to a cessation of hostilities, was not demanded; but His Royal Highness the Prince Regent was required, in the name and on the behalf of His Majesty, secretly to abandon, what the former overture had proposed to him publicly to concede.

This most offensive proposition was also rejected, being accompanied, as the former had been, by other demands of the most exceptionable nature, and especially of indemnity for all American vessels detained and condemned under the Orders in Council, or under what were termed illegal blockades—a compliance with which demands, exclusive of all other objections, would have amounted to an absolute surrender of the rights, on which those Orders and Blockades were founded.

Had the American Government been sincere in representing the Orders in Council, as the only subject of difference between Great Britain and the United States, calculated to lead to hostilities; it might have been expected, so soon as the revocation of those Orders had been officially made known to them, that they would have spontaneously recalled their "letters of marque," and manifested a disposition immediately to restore the relations of peace and amity between the Two Powers.

But the conduct of the Government of the United States by no means corresponded with such reasonable expectations.

The Order in Council of the 23d of June being officially communicated in America, the Government of the United States, saw nothing in the Repeal of the Orders in Council, which should of itself restore Peace, unless Great Britain were prepared, in the first instance, substantially to relinquish the right of impressing her own seamen, when found on board American Merchant Ships.

The proposal of an Armistice, and of a simultaneous Repeal of the restrictive measures on both sides, subsequently made by the commanding officer of His Majesty's naval forces on the American coast, were received in the same hostile spirit by the Government of the United States. The suspension of the practice of impressment was insisted upon, in the correspondence which passed on that occasion, as a necessary preliminary to a cessation of hostilities: Negotiation, it was stated, might take place without any suspension of the exercise of this Right, and also without any Armistice being concluded; but Great Britain was required previously to agree, without any knowledge of the adequacy of the system which could be substituted, to negotiate upon the basis of accepting the legislative Regulations of a foreign State, as the sole equivalent for the exercise of a right which she has felt to be essential to the support of her maritime power.

If America, by demanding this preliminary concession, intends to deny the validity of that Right, in that denial Great Britain cannot acquiesce; nor will she give countenance to such a pretension, by acceding to its suspension, much less to its abandonment, as a basis on which to treat: If the American Government has devised, or conceives it can devise, Regulations, which may safely be accepted by Great Britain, as a substitute for the exercise of the right in question, it is for them to bring forward such a plan for consideration. The British Government has never attempted to exclude this question from amongst those, on which the two States might have to negotiate: It has, on the contrary, uniformly professed its readiness to receive and discuss any proposition on this subject, coming from the American Government: It has never asserted any exclusive right, as to the impressment of British seamen from American vessels, which it was not prepared to acknowledge, as appertaining equally to the Government of the United States, with respect to American seamen when found on board British merchant ships:—But it cannot, by acceding to such a basis in the first instance, either assume, or admit that to be practicable, which, when attempted on former occasions, has always been found, to be attended with great difficulties; such difficulties, as the British Commissioners in 1806, expressly declared, after an attentive consideration of the suggestions brought forward by the Commissioners on the part of America, they were unable to surmount.

Whilst this proposition, transmitted through the British Admiral, was pending in America, another communication on the subject of an armistice was unofficially made to the British Government in this country. The Agent, from whom this proposition was received, acknowledged that he did not consider, that he had any authority himself, to sign an agreement on the part of his Government. It was obvious that any stipulations entered into, in consequence of this overture, would have been binding on the British Government, whilst the Government of the United States would have been free to refuse or accept them, according to the circumstances of the moment: This proposition was therefore necessarily declined.

After this exposition of the circumstances which preceded, and which have followed the declaration of war by the United States, His Royal Highness the Prince Regent, acting in the name and on the behalf of His Majesty, feels himself called upon to declare the leading principles, by which the conduct of Great Britain has been regulated in the transactions connected with these discussions.

His Royal Highness can never acknowledge any blockade whatsoever to be illegal, which has been duly notified, and is supported by an adequate force, merely upon the ground of its extent, or because the ports, or coasts blockaded are not at the same time invested by land.

His Royal Highness can never admit, that neutral trade with Great Britain can be constituted a public crime, the commission of which can expose the ships of any power whatever to be denationalized.

His Royal Highness can never admit that Great Britain can be debarred of its right of just and necessary retaliation, through the fear of eventually affecting the interest of a neutral.

His Royal Highness can never admit, that in the exercise of the undoubted and hitherto undisputed right of searching neutral merchant vessels in time of war, the impressment of British seamen, when found therein, can be deemed any violation of a neutral flag. Neither can he admit, that the taking such seamen from on board such vessels, can be considered by any Neutral State as a hostile measure, or a justifiable cause of war.

There is no right more clearly established, than the right which a Sovereign has to the allegiance of his subjects, more especially in time of war. Their allegiance is no optional duty, which they can decline, and resume at pleasure. It is a call which they are bound to obey: it began with their birth, and can only terminate with their existence.

If a similarity of language and manners may make the exercise of this Right more liable to partial mistakes, and occasional abuse, when practiced towards vessels of the United States, the same circumstances make it also a right, with the exercise of which, in regard to such vessels, it is more difficult to dispense.

But if, to the practice of the United States, to harbour British seamen, be added their assumed right, to transfer the allegiance of British subjects, and thus to cancel the jurisdiction of their legitimate Sovereign, by acts of naturalization and certificates of citizenship, which they pretend to be as valid out of their own territory, as within it, it is obvious that to abandon this ancient right

of Great Britain, and to admit these novel pretensions of the United States, would be to expose to danger the very foundation of our maritime strength.

Without entering minutely into the other topics, which have been brought forward by the Government of the United States, it may be proper to remark, that whatever the Declaration of the United States may have asserted, Great Britain never did demand, that they should force British manufactures into France; and she formally declared her willingness entirely to forego, or modify, in concert with the United States, the System, by which a commercial Intercourse with the enemy had been allowed under the protection of Licences; provided the United States would act towards her, and towards France with real impartiality.

The Government of America, if the differences between States are not interminable, has as little right to notice the affair of the Chesapeake. The aggression, in this instance, on the part of a British officer, was acknowledged, his conduct was disapproved, and a reparation was regularly tendered by Mr. Foster on the part of His Majesty, and accepted by the Government of the United States.

It is not less unwarranted in its allusion to the mission of Mr. Henry; a mission undertaken without the authority, or even knowledge of His Majesty's Government, and which Mr. Foster was authorised formally and officially to disavow.

The charge of exciting the Indians to offensive measures against the United States, is equally void of foundation. Before the war began, a policy the most opposite had been uniformly pursued, and proof of this was tendered by Mr. Foster to the American Government.

Such are the causes of war which have been put forward by the Government of the United States. But the real origin of the present contest will be found in that spirit, which has long unhappily actuated the Councils of the United States: their marked partiality in palliating and assisting the aggressive tyranny of France; their systematic endeavours to inflame their people against the defensive measures of Great Britain; their ungenerous conduct towards Spain, the intimate ally of Great Britain; and their unworthy desertion of the cause of other neutral nations. It is through the prevalence of such councils, that America has been associated in policy with France, and committed in war against Great Britain.

And under what conduct on the part of France has the Government of the United States thus lent itself to the enemy? The contemptuous violation of the Commercial Treaty of the year 1800, between France and the United States; the treacherous seizure of all American vessels and cargoes in every harbour subject to the controul of the French arms; the tyrannical principles of the Berlin and Milan Decrees, and the confiscations under them; the subsequent condemnations under the Rambouillet Decree, antedated or concealed to render it the more effectual; the French commercial regulations which render the traffic of the United States with France almost illusory; the burning of their merchant ships at sea, long after the alledged repeal of the French Decrees—all these acts of violence on the part of France produce from the Government of the United States, only such complaints as end in acquiescence, and submission, or are accompanied by suggestions for enabling France to give the semblance of a legal form to her usurpations, by converting them into municipal regulations.

This disposition of the Government of the United States—this complete subserviency to the Ruler of France—this hostile temper towards Great Britain—are evident in almost every page of the official correspondence of the American with the French Government.

Against this course of conduct, the real cause of the present war, the Prince Regent solemnly protests. Whilst contending against France, in defence not only of the liberties of Great Britain, but of the world, His Royal Highness was entitled to look for a far different result. From their common origin—from their common interest—from their professed principles of freedom and independence, the United States were the last Power in which Great Britain could have expected to find a willing instrument, and abettor of French Tyranny.

Disappointed in this His just expectation, the Prince Regent will still pursue the policy, which the British Government has so long, and invariably maintained, in repelling injustice; and in supporting the general rights of nations; and, under the favour of Providence, relying on the justice of his cause, and the tried loyalty and firmness of the British nation, His Royal Highness confidently looks forward to a successful issue to the contest, in which he has thus been compelled most reluctantly to engage.

Westminster, January 9, 1813.

Treaties.

viz:-

Russia. Sweden
Sicily.



1844

Chapman - Boston
July 10

Dear Sir

TREATY WITH RUSSIA.

341 37.
T R E A T Y

OF

PEACE, UNION, AND FRIENDSHIP,

BETWEEN

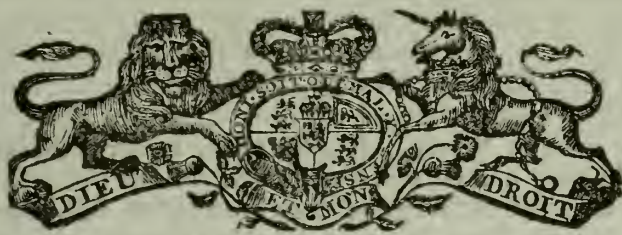
HIS BRITANNIC MAJESTY

AND

THE EMPEROR OF ALL THE RUSSIAS;

Signed at Orebro the 18th of July 1812.

Published by Authority.



LONDON:

PRINTED BY R. G. CLARKE, CANNON-RROW.

1812.

T R E A T Y .

In the Name of the Holy and Undivided Trinity.

HIS Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the Emperor of All the Russias, being equally animated with the desire of re-establishing the ancient relations of friendship and good understanding between the two respective States, have named for that purpose their Plenipotentiaries, namely; His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty the King of the United Kingdom of Great Britain and Ireland, Edward Thornton, Esquire, His Plenipotentiary at the Court of His Majesty the King of Sweden; and His Majesty the Emperor of All the Russias, Peter de Suehtelen, General of Engineers, Quarter-Master-General, Member of the Council of State, Inspector of the whole of the Department of Engineers, Knight of the Order of Saint Alexander Newsky, Grand Cross of those of Saint Wladimir and of Saint Anne of the First Class, Knight of the Order of Saint George of the Fourth Class, and Commander of that of Saint John of Jerusalem; and Paul Baron de Nicolay, his Gentleman of the Bedchamber of the Fifth Class, charged with his Affairs at the Court of His Majesty the King of Sweden, Knight of the Order of Saint Wladimir of the Third Class, and of the Royal Order of the Polar Star of Sweden; who, after the exchange of their respective full powers, drawn up in good and due form, have agreed upon the following articles:

ARTICLE I.

There shall be between His Majesty the King of the United Kingdom of Great Britain and Ireland; and His Majesty the Emperor of All the Russias, their heirs and successors, and between their respective states and subjects, a firm, true, and inviolable peace, and a sincere and perfect union and friendship, so that from this moment all cause of misunderstanding which may have existed between them, shall be considered as entirely ceasing and done away.

ARTICLE

TRAITÉ,

Au Nom de la très Sainte et Indivisible Trinité.

SA Majesté le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande, et Sa Majesté l'Empereur de toutes les Russies, également animés du désir de rétablir les anciennes relations d'amitié et de bonne intelligence entre les deux Etats respectifs, ont nommé à cet effet pour leurs Plénipotentiaires ; savoir, Son Altesse Royale le Prince Régent, au nom et de la part de Sa Majesté le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande, le Sieur Edouard Thornton, Ecuyer, Son Plénipotentiaire près Sa Majesté le Roi de Suède ; et Sa Majesté l'Empereur de toutes les Russies, le Sieur Pierre de Suchtelen, Son Général du Génie, Quartier Maître Général, Membre du Conseil d'Etat, Inspecteur de tout le Département du Génie, Chevalier de l'Ordre de Saint Alexandre Newsky, Grand Croix de ceux de Saint Wladimir et de Sainte Anne de la première Classe, Chevalier de l'Ordre de Saint George de la Quatrième Classe, et Commandeur de celui de Saint Jean de Jérusalem ; et le Sieur Paul Baron de Nicolay, Son Gentilhomme de la Chambre, de la Cinquième Classe, Chargé de Ses Affaires près Sa Majesté le Roi de Suède, Chevalier de l'Ordre de Saint Wladimir de la Troisième Classe, et de l'Ordre Royal de Suède de l'Etoile Polaire ; lesquels, après l'Echange de leurs pleinpouvoirs respectifs, trouvés en bonne et dûe forme, sont convenus des articles suivans :

ARTICLE I.

Il y aura entre Sa Majesté le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande, et Sa Majesté l'Empereur de toutes les Russies, leurs Héritiers et Successeurs, et entre leurs états et sujets respectifs, une ferme, vraie et inviolable paix, et une sincère et parfaite union et amitié, de sorte que dès ce moment tout sujet de mésintelligence qui ait pû subsister entre Eux, sera regardé comme entièrement cessant et détruit.

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ARTICLE,

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ARTICLE II.

The relations of friendship and commerce between the two countries, shall be re-established on both sides, upon the footing of the most favoured nations.

ARTICLE III.

If, in resentment of the present pacification, and of the re-establishment of the good understanding between the two countries, any Power whatsoever shall commit hostilities, whether against His Britannic Majesty or against His Imperial Majesty, the two contracting Sovereigns engage to make common cause for the support and security of their respective states.

ARTICLE IV.

The two High Contracting Parties will endeavour to come to an understanding and arrangement as soon as possible, as to all matters relating to their mutual interests, political as well as commercial.

ARTICLE V.

The present Treaty shall be ratified by the two High Contracting Parties, and the ratifications shall be exchanged in six weeks, or sooner, if possible.

In faith whereof we the undersigned, in virtue of our full powers, have signed the present Treaty of Peace, and fixed thereto the seal of our arms.

Done at Orebro, the eighteenth day of the month of July, in the year of our Lord one thousand eight hundred and twelve.

EDWARD THORNTON.

(L. S.)

SUCHTELEN.

(L. S.)

PAUL BARON DE NICOLAY.

(L. S.)

ARTICLE II.

Les relations d'amitié et de commerce entre les deux pays, seront rétablies de part et d'autre, sur le pied des nations les plus favorisées.

ARTICLE III.

Si en haine de la pacification présente, et du rétablissement de la bonne intelligence entre les deux pays, une puissance quelconque faisoit la guerre, soit à Sa Majesté Britannique, soit à Sa Majesté Impériale, les deux Souverains Contractans S'engagent à prendre fait et cause, l'Un pour l'autre, pour le maintien et pour la sureté de leurs états respectifs.

ARTICLE IV.

Les deux Hautes Parties Contractantes Se réservent de s'entendre et de s'arranger le plutôt possible, sur tout ce qui pourroit avoir rapport à leurs intérêts mutuels, tant politiques que commerciaux.

ARTICLE V.

Le présent Traité sera ratifié par les deux Hautes Parties Contractantes, et les ratifications seront échangées dans six semaines, ou plutôt si faire se peut.

En foi de quoi, nous sous-signés, en vertu de nos Pleinpouvoirs, avons signé le présent Traité de Paix, et y avons apposé le cachet de nos armes.

Fait à Orebro le 18 Juillet, l'an de Grace, mil huit cent douze.

EDWARD THORNTON.

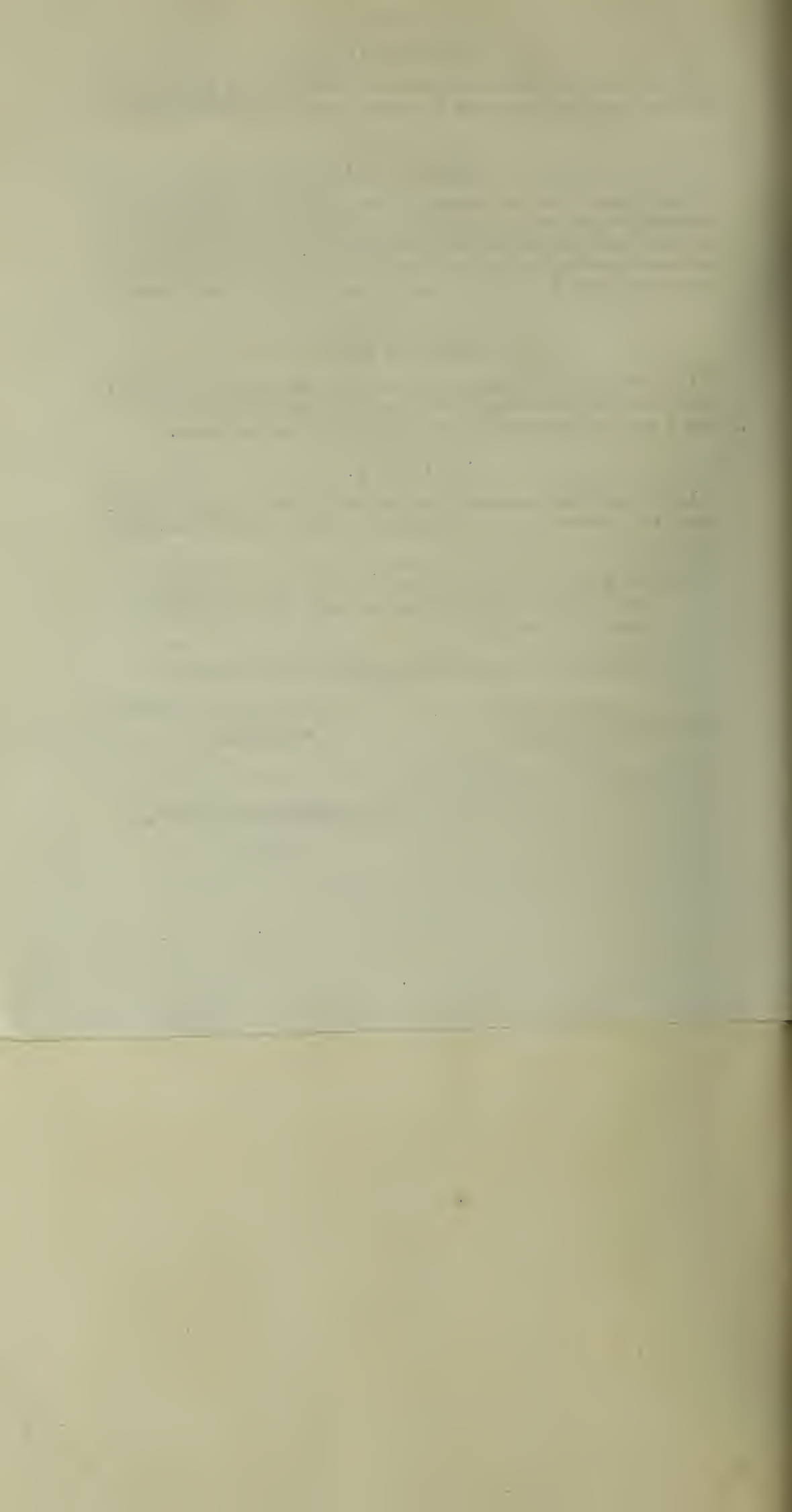
(L. S.)

SUCHTELEN.

(L. S.)

PAUL BARON DE NICOLAY.

(L. S.)



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IV.

TREATY WITH SWEDEN.

T R E A T Y
OF
PEACE, UNION, AND FRIENDSHIP,
BETWEEN
HIS BRITANNIC MAJESTY
AND
THE KING OF SWEDEN ;

Signed at Orebro the 18th of July 1812.

Published by Authority.



LONDON:
PRINTED BY R. G. CLARKE, CANNON-ROW.

1812.

T R E A T Y.

In the Name of the Most Holy and Undivided Trinity.

HIS Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the King of Sweden, being equally animated with the desire of re-establishing the ancient relations of friendship and good understanding between the two Crowns, and between their respective States, have named for this purpose their Plenipotentiaries, that is to say ; His Royal Highness the Prince Regent, in the name and on the behalf of His Majesty the King of the United Kingdom of Great Britain and Ireland, Edward Thornton, Esquire ; and His Majesty the King of Sweden, Lawrence Baron d'Engeström, one of the Nobles of the kingdom of Sweden, Minister of State and of Foreign Affairs, Chancellor of the University of Lund, Knight and Commander of the Orders of the King, Knight of the Royal Order of Charles the Thirteenth, Grand Eagle of the Legion of Honour of France ; and Gustavus Baron de Wetterstedt, Chancellor of the Court, Commander of the Order of the Polar Star, one of the Eighteen Members of the Swedish Academy ; the which Plenipotentiaries, after having exchanged their full powers, drawn up in full and due form, have agreed upon the following articles :

ARTICLE I.

There shall be between their Majesties the King of the United Kingdom of Great Britain and Ireland, and the King of Sweden, their heirs and successors, and between their subjects, kingdoms, and respective states, a firm, true, and inviolable peace, and a sincere and perfect union and friendship, so that from this moment every cause of misunderstanding, which may have existed between them, shall be regarded as entirely ceasing and done away.

ARTICLE

TRAITÉ.

Au Nom de la très Sainte et Indivisible Trinité.

SA Majesté, le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande, et Sa Majesté le Roi de Suède, également animés du désir de rétablir les anciennes relations d'amitié et de bonne correspondance entre les deux Couronnes et entre leurs Etats respectifs, ont nommé pour cet effet leurs Plénipotentiaires; c'est à dire, Son Altesse Royale le Prince Régent, au nom et de la part de Sa Majesté le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande, le Sieur Edouard Thornton, Ecuyer; et Sa Majesté le Roi de Suède, le Sieur Laurent Baron d'Engeström, un des Seigneurs du Royaume de Suède, Ministre d'Etat et des Affaires Etrangères, Chancelier de l'Université de Lund, Chevalier et Commandeur des Ordres du Roi, Chevalier de l'Ordre Royal de Charles Treize, Grand-Aigle de la Légion d'Honneur de France; et le Sieur Gustave Baron de Wetterstedt, Chancelier de la Cour, Commandeur de l'Ordre de l'Etoile Polaire, un des Dix Huit de l'Académie Suédoise; lesquels Plénipotentiaires, après avoir échangés leurs pleinpouvoirs, dressés en pleine et due forme, sont convenus des articles suivans :

ARTICLE I.

Il y aura entre leurs Majestés, le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande, et le Roi de Suède, leurs Héritiers et Successeurs, et entre leurs sujets, royaumes, et états respectifs, une ferme, vraie, et inviolable paix, et une sincère et parfaite union et amitié, de sorte que dès ce moment tout sujet de mésintelligence, qui ait pû subsister entr' Elles, sera regardé comme entièrement cessant et détruit.

ARTICLE II.

The relations of friendship and commerce between the two kingdoms, shall be re-established upon the footing on which they stood on the 1st day of January 1791 ; and all the Treaties and Conventions subsisting between the two countries at that epoch, shall be regarded as renewed and confirmed, and they are, by the present Treaty, renewed and confirmed accordingly.

ARTICLE III.

If in resentment of the present pacification, and the re-establishment of good understanding between the two countries, any power whatsoever shall make war upon Sweden, His Majesty the King of the United Kingdom of Great Britain and Ireland engages to take measures, in concert with His Majesty the King of Sweden, for the security and independence of his states.

ARTICLE IV.

The present Treaty shall be ratified by the two High Contracting Parties, and the ratifications shall be exchanged within six weeks, or sooner, if possible:

In faith whereof we the undersigned, in virtue of our full powers, have signed the present Treaty, and have fixed thereto the seal of our arms.

Done at Orebro, the eighteenth day of the month of July in the year of our Lord one thousand eight hundred and twelve.

EDWARD THORNTON.

(L. S.)

THE BARON D'ENGESTROM.

(L. S.)

G. BARON DE WETTERSTEDT.

(L. S.)

ARTICLE II.

Les relations d'amitié et de commerce entre les deux pays, seront rétablies sur le pied où elles étoient au premier jour de Janvier 1791, et tous les Traités et les Conventions subsistant entre les deux états à cette époque, seront regardés comme renouvelés et confirmés, et sont ainsi, par le présent Traité, renouvelés et confirmés.

ARTICLE III.

Si en haine de la pacification présente, et du rétablissement de la bonne correspondance entre les deux pays, quelque puissance que ce soit fait la guerre à la Suède, Sa Majesté Le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande, S'engage de prendre des mesures de concert avec Sa Majesté le Roi de Suède, pour la sureté et pour l'indépendance de ses états.

ARTICLE IV.

Le présent Traité sera ratifié par les deux Hautes Parties Contractantes, et les ratifications en seront échangées en six semaines, ou plutôt si faire se peut.

En foi de quoi, nous sous-signés, en vertu de nos Pleinpouvoirs, avons signé le présent traité, et l'avons muni du cachet de nos armes.

Fait à Orebro le dix huitième jour du mois de Juillet, l'an de Graec, mil huit cent et douze.

EDWARD THORNTON.

(L. S.)

LE BARON D'ENGESTROM,

(L. S.)

G. BARON DE WETTERSTEDT.

(L. S.)

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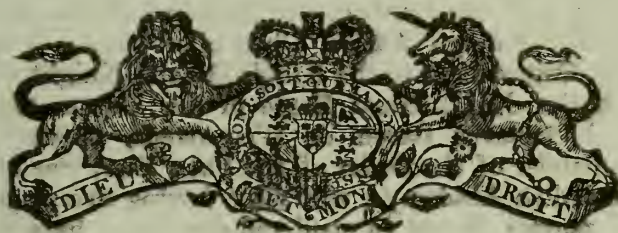
γ.**TREATY WITH SWEDEN.**

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TREATY
OF
CONCERT AND SUBSIDY
BETWEEN
HIS BRITANNIC MAJESTY
AND
THE KING OF SWEDEN;

Signed at Stockholm the 3d of March 1813.

Published by Authority.



LONDON:

PRINTED BY R. G. CLARKE, CANNON ROW,

1813.

T R E A T Y.

In the Name of the Most Holy and Undivided Trinity.

HIS Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the King of Sweden, equally animated with the desire of drawing closer the ties of friendship and good intelligence which so happily subsist between them, and penetrated with the urgent necessity of establishing with each other a close concert for the maintenance of the independence of the North, and in order to accelerate the so much wished for epocha of a general Peace, have agreed to provide for this twofold object by the present Treaty. For this purpose they have chosen for their Plenipotentiaries; namely, His Royal Highness the Prince Regent, in the name and on behalf of His Majesty the King of the United Kingdom of Great Britain and Ireland, the Honourable Alexander Hope, Major-General of His Majesty's Armies; and Edward Thornton, Esquire, his Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of Sweden; and His Majesty the King of Sweden, Lawrence Count d'Engeström, one of the Lords of the Kingdom of Sweden, Minister of State and for Foreign Affairs, Chancellor of the University of Lund, Knight Commander of the King's Orders, Knight of the Royal Order of Charles XIII. Great Eagle of the Legion of Honour of France; and Gustavus Baron de Wetterstedt, Chancellor of the Court, Commander of the Order of the Polar Star, one of the Eighteen of the Swedish Academy; who after having exchanged their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I.

His Majesty the King of Sweden engages to employ a corps of not less than thirty thousand men, in a direct operation upon the Continent

TRAITE.

au Nom de la très Sainte et Indivisible Trinité.

SA Majesté le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande, et Sa Majesté le Roi de Suède, également animées du désir de resserrer les liens d'amitié et de bonne intelligence qui subsistent si heureusement entre elles, et pénétrées de la nécessité urgente d'établir entre elles un concert intime pour le maintien de l'indépendance du Nord, et afin d'accélérer l'époque tant désirée, d'une paix générale, sont convenues de remplir ce double but par le présent Traité. A cet effet elles ont choisi pour leurs Plénipotentiaires, Savoir, Son Altesse Royale le Prince Regent, au nom et de la part de Sa Majesté le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande, l'Honorable Alexandre Hope, Major-Général des Armées de Sa Majesté, et le Sieur Edouard Thornton, Ecuyer, Son Envoyé Extraordinaire et Ministre Plénipotentiaire auprès de Sa Majesté le Roi de Suède; et Sa Majesté le Roi de Suède, le Sieur Laurent Comte d'Engeström, un des Seigneurs du Royaume de Suède, Ministre d'Etat et des Affaires Etrangères, Chancelier de l'Université de Lund, Chevalier Commandeur des Ordres du Roi, Chevalier de l'Ordre Royal de Charles Treize, Grand-Aigle de la Légion d'Honneur de France; et le Sieur Gustave Baron de Wetterstedt, Chancelier de la Cour, Commandeur de l'Ordre de l'Etoile Polaire, un des Dix Huit de l'Académie Suédoise; lesquels, après avoir échangé leurs pleinpouvoirs respectifs, trouvés en bonne et due forme, sont convenus des articles suivans;

ARTICLE I.

Sa Majesté le Roi de Suède S'engage d'employer un corps de Trente Mille Hommes, pour le moins, à une opération directe sur le Con-

tinent against the common enemies of the two high contracting parties. This army shall act in concert with the Russian troops placed under the command of His Royal Highness the Prince Royal of Sweden, according to stipulations to this effect already existing between the Courts of Stockholm and St. Petersburg.

ARTICLE II.

The said Courts having communicated to His Britannic Majesty the engagements subsisting between them, and having formally demanded His said Majesty's accession thereto, and His Majesty the King of Sweden having, by the stipulations contained in the preceding article, given a proof of the desire which animates him to contribute also on his part to the success of the common cause; His Britannic Majesty being desirous in return to give an immediate and unequivocal proof of his resolution to join his interests to those of Sweden and Russia, promises and engages by the present Treaty to accede to the conventions already existing between those two powers, inasmuch that His Britannic Majesty will not only not oppose any obstacle to the annexation and union in perpetuity of the Kingdom of Norway as an integral part, to the Kingdom of Sweden, but also will assist the views of His Majesty the King of Sweden to that effect, either by his good offices, or by employing, if it should be necessary, his naval co-operation in concert with the Swedish or Russian forces. It is nevertheless to be understood, that recourse shall not be had to force for effecting the union of Norway to Sweden, unless His Majesty the King of Denmark shall have previously refused to join the alliance of the North, upon the conditions stipulated in the engagements subsisting between the Courts of Stockholm and St. Petersburg; and His Majesty the King of Sweden engages, that this union shall take place with every possible regard and consideration for the happiness and liberty of the people of Norway.

ARTICLE III.

In order to give more effect to the engagements contracted by His Majesty the King of Sweden in the first article of the present Treaty,
which

minent contre les ennemis communs des deux hautes parties contractantes. Cette armée agira de concert avec les troupes Russes placées sous les Ordres de Son Altesse Royale le Prince Royal de Suède, d'après les stipulations déjà existantes à cet égard, entre les Cours de Stockholm et de St. Pétersbourg.

ARTICLE II.

Ces mêmes Cours ayant communiqué à Sa Majesté Britannique les engagements subsistans entre Elles, en y demandant formellement l'Accession de Sa dite Majesté, et Sa Majesté le Roi de Suède ayant, par les stipulations contenues dans l'article précédant, mis en évidence le desir qui l'anime de contribuer aussi de Son Coté au succès de la cause commune, Sa Majesté Britannique, voulant en retour donner une preuve immédiate et non équivoque de Sa Resolution de joindre ses intérêts à ceux de la Suède et de la Russie, promet et S'engage par la présente, d'accéder aux Conventions déjà existantes entre ces deux puissances, en tant que Sa Majesté Britannique non seulement n'opposera aucun obstacle à ce que le Royaume de Norvège soit annexé et réuni à perpétuité, comme partie intégrante au Royaume de Suède, mais aussi aidera les vues de Sa Majesté le Roi de Suède à cet égard, soit par ses bons offices, soit en y employant, s'il était nécessaire, Sa co-operation navale de concert avec les forces Suédoises ou Russes. Il est toutefois entendu qu'on n'adoptera point la voye des armes pour opérer la ré-union de la Norvège à la Suède, qu'après que Sa Majesté le Roi de Dannemarc se sera refusé de se joindre à l'alliance du Nord, sous les conditions stipulées dans les engagements subsistans entre les cours de Stockholm et de St. Pétersbourg; et Sa Majesté le Roi de Suède S'engage, que cette re-union se fera avec tous les ménagemens et tous les égards possibles pour le bonheur et pour la liberté de la Norvège.

ARTICLE III.

Afin de donner plus d'effet aux engagements contractés par Sa Majesté le Roi de Suède par l'article premier du présent Traité, qui ont
pour

which have for object direct operations against the common enemies of the two powers, and in order to put His Swedish Majesty in a state to begin without loss of time, and as soon as the season shall permit, the said operations, His Britannic Majesty engages to furnish to His Majesty the King of Sweden, (independently of other succours which general circumstances may place at his disposal) for the service of the campaign of the present year, as well as for the equipment, the transport and maintenance of his troops, the sum of one million sterling, payable at London monthly, to the agent who shall be authorised by His Swedish Majesty to receive the same, in such manner as not to exceed the payment of two hundred thousand pounds sterling each month, until the whole shall be paid.

ARTICLE IV.

It is agreed between the two High Contracting Parties, that an advance, of which the amount and the time of payment shall be determined between them, and which is to be deducted from the million before stipulated, shall be made to His Majesty the King of Sweden for the "mise en campagne," and for the first march of the troops; the remainder of the before-mentioned succours are to commence from the day of the landing of the Swedish army, as it is stipulated by the two High Contracting Parties in the first article of the present Treaty.

ARTICLE V.

The two High Contracting Parties being desirous of giving a solid and lasting guarantee to their relations, as well political as commercial, His Britannic Majesty, animated with a desire to give to his ally evident proofs of his sincere friendship, consents to cede to His Majesty the King of Sweden, and to his successors to the Crown of Sweden in the order of succession established by His said Majesty, and the States-General of his kingdom, under date the twenty-sixth of September 1810, the possession of Guadaloupe in the West Indies, and to transfer to His Swedish Majesty all the rights of His Britannic Majesty over that island, in so far as His said Majesty actually possesses the same. This colony shall be given up to the Commissioners of His Majesty the King of Sweden in the course of the month of August of the present year, or three months after the landing of the Swedish troops on the Continent; the whole to take place according to the conditions

pour but des operations directes contre les ennemis communs des deux puissances, et afin de mettre Sa Majesté Suédoise en etat de commencer sans perte de tems, et aussitôt que la saison le permettra les dites opérations, Sa Majesté Britannique s'engage à fournir à Sa Majesté le Roi de Suède (indépendamment des autres secours que les circonstances générales mettront à Sa disposition) pour le service de la campagne de l'armée présente, ainsi que pour l'équipement, le transport, et l'entretien de ses troupes, une somme d'un million de livres sterling, payable à Londres, mois par mois, à l'agent qui sera autorisé par Sa Majesté Suédoise de le recevoir, de manière à ne pas excéder la somme de deux cent mille livres sterling dans un mois, jusqu' à ce que le tout soit acquitté.

ARTICLE IV.

Il est convenu entre les deux Hautes Parties Contractantes, qu' une avance, dont le montant et l'époque du paiement seront déterminés entre elles, et qui devra être décomptée sur le million stipulé ci-dessus, sera payée à Sa Majesté le Roi de Suède, pour la mise en campagne, et pour les premiers mouvemens des troupes, le restant des secours sus-mentionnés devant échoir à dater du jour de débarquement de l'armée Suédoise, ainsi qu'il est stipulé par les deux Hautes Parties Contractantes par l'article premier du présent Traité.

ARTICLE V.

Les deux Hautes Parties Contractantes voulant donner une garantie solide et durable à leurs relations tant politiques que commerciales, Sa Majesté Britannique, animée du désir de donner à son allié des preuves évidentes de son amitié sincère, consent de céder à Sa Majesté le Roi de Suède, et à ses successeurs à la couronne de Suède d'après l'Ordre de Succession établi par Sa dite Majesté, et les Etats Généraux de Son Royaume, en date du vingt six Septembre mil huit cent et dix, la possession de la Guadeloupe dans les Indes occidentales, et de transférer à Sa Majesté Suédoise tous les droits de Sa Majesté Britannique sur cette Isle, telle que Sa dite Majesté la possède actuellement. Cette colonie sera remise aux mandataires de Sa Majesté le Roi de Suède, dans le courant du mois d'Août, de la présente année ou trois mois après le débarquement des troupes Suédoises sur le Continent; le tout aux conditions convenues entre les

conditions agreed upon between the two High Contracting Parties, in the separate article annexed to the present Treaty.

ARTICLE VI.

As a reciprocal consequence of what has been stipulated in the preceding article, His Majesty the King of Sweden engages to grant, for the space of twenty years, to take date from the exchange of the ratifications of the present Treaty, to the subjects of His Britannic Majesty, the right of entrepôt in the ports of Gottenburgh, Carlshamn, and Stralsund, (whenever this last-mentioned place shall return under the Swedish dominion) for all commodities, productions, or merchandise, whether of Great Britain or of her colonies, laden on board British or Swedish vessels. The said commodities or merchandise, whether they be of such kind as may be introduced and subject to duty in Sweden, or whether their introduction be prohibited, shall pay without distinction, as duty of entrepôt, one per cent. ad valorem; upon entry, and the same upon discharge. As to every other particular relating to this object, the general regulations existing in Sweden shall be conformed to; treating always the subjects of His Britannic Majesty upon the footing of the most favoured nations.

ARTICLE VII.

From the day of the signature of the present Treaty, His Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the King of Sweden, reciprocally promise not to separate their mutual interests, and particularly those of Sweden which are referred to in the present Treaty, in any negotiation whatever with their common enemies.

ARTICLE VIII.

The ratifications of the present Treaty shall be exchanged at Stockholm within four weeks, or sooner if possible.

In faith of which, we the undersigned, in virtue of our full powers, have signed the present Treaty, and have affixed thereto the seals of our arms.

Done at Stockholm, the third March in the year of our Lord one thousand eight hundred and thirteen.

ALEXANDER HOPE.

(L. S.)

EDWARD THORNTON.

(L. S.)

LE COMTE D'ENGESTROM.

(L. S.)

G. BARON DE WETTERSTEDT.

(L. S.)

deux Haute, Parties Contractantes par l'article séparé joint au présent Traité.

ARTICLE VI.

Par une suite réciproque de ce qui a été statué dans l'article précédent, Sa Majesté le Roi de Suède s'engage d'accorder, pendant la durée de vingt ans, à compter de l'échange des ratifications du présent Traité, aux sujets de Sa Majesté Britannique, le droit d'entrepôt dans les ports de Gothenbourg, de Carlshamn, et de Stralsund, (lorsque cette dernière place retournera sous la domination Suédoise) pour toutes les denrées, productions ou marchandises, soit de la Grande Bretagne, soit de ses colonies, chargées sur des Bâtimens Britanniques ou Suédois. Les dites denrées ou marchandises, soit qu'elles soient de nature à pouvoir être introduites et douanées en Suède, soit que leur introduction y soit prohibée, payeront indistinctement, en droit d'entrepôt, un pour cent. ad valorem, pour l'entrée, et le même montant pour la sortie. Au reste on se conformera, pour tout ce qui a rapport à cet objet, d'après les réglemens généraux en Suède; en traitant les sujets de Sa Majesté Britannique sur le pied des nations les plus favorisées.

ARTICLE VII.

A dater du jour de la signature du présent Traité, Sa Majesté le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande, et Sa Majesté le Roi de Suède, se promettent réciproquement de ne point séparer leurs intérêts mutuels, et nommément ceux de la Suède, dont il s'agit dans le présent Traité, dans aucune négociation quelconque avec leurs ennemis communs.

ARTICLE VIII.

Les ratifications du présent Traité seront échangées à Stockholm dans quatre semaines, ou plutôt si faire se peut.

En foi de quoi, nous sous-signés, en vertu de nos Pleinpouvoirs, avons signé le présent Traité, et y avons apposé le cachet de nos armes.

Fait à Stockholm le trois Mars, l'an de Grace mil huit cent et Treize.

ALEXANDER HOPE.

(L. S.)

LE COMTE D'ENGESTRÖM.

(L. S.)

EDWARD THORNTON.

(L. S.)

G. BARON DE WETTERSTEDT.

(L. S.)

SEPARATE ARTICLE.

As a consequence of the cession made by His Britannic Majesty, in the fifth article of the Treaty signed this day, of the island of Guadeloupe, His Majesty the King of Sweden engages ;

1. Faithfully to fulfill and observe the stipulations of the capitulation of the said island, under date the 5th of February 1810, so that all the privileges, rights, benefices, and prerogatives, confirmed by that Act to the inhabitants of the colony, shall be preserved and maintained.

2. To take for this purpose, previous to the cession before-mentioned, every engagement which may be judged necessary with His Britannic Majesty, and to execute all acts conformable thereto.

3. To grant to the inhabitants of Guadeloupe the same protection, and the same advantages which the other subjects of His Majesty the King of Sweden enjoy, conformably always to the laws and stipulations actually existing in Sweden.

4. To forbid and prohibit, at the period of the cession, the introduction of slaves from Africa into the said island, and the other possessions in the West Indies of His Swedish Majesty, and not to permit Swedish subjects to engage in the slave trade ; an engagement which His Swedish Majesty is the more willing to contract, as this traffic has never been authorised by him.

5. To exclude during the continuance of the present war, all armed vessels and privateers belonging to states at war with Great Britain, from the ports and harbours of Guadeloupe ; and not to permit in any future wars in which Great Britain may be engaged and Sweden remain neutral, the entrance into the ports of the said colony of the privateers belonging to any of the belligerent states.

6. Not to alienate the said island without the consent of His Britannic Majesty ; and

7. To grant every protection and security to British subjects and to their property, whether they may choose to quit the colony, or to remain there.

This

ARTICLE SÉPARÉ.

PAR une suite de la cession faite par Sa Majesté Britannique, dans l'Article V. du Traité signé aujourd'hui, de l'Isle de Guadeloupe, Sa Majesté le Roi de Suède S'engage ;

1. De remplir et observer fidèlement les stipulations de la capitulation de la dite isle, en date du cinq Fevrier mil huit cent dix ; de sorte que tous les privilèges, droits, et bénéfices et prérogatives assurés par cet acte, aux habitans de la colonie, seront conservés et maintenus.

2. De prendre à cet effet, et avant la cession susmentionnée, tous les engagemens avec Sa Majesté Britannique, qui seront jugés nécessaires, et de passer tous les actes y relatifs.

3. D'accorder aux habitans de la Guadeloupe la même protection, et les mêmes avantages dont jouissent les autres sujets de Sa Majesté le Roi de Suède, conformément toutefois aux loix et stipulations actuellement existantes en Suède.

4. De défendre et de prohiber au moment de la cession l'introduction des esclaves de l'Afrique dans la dite isle, et dans les autres possessions de Sa Majesté Suédoise aux Indes Occidentales et de ne point permettre aux sujets Suédois de s'engager dans la Traite des Nègres, obligations que Sa Majesté Suédoise est d'autant à même de contracter, que ce trafic n'a jamais été autorisé par elle.

5. D'exclure, durant le cours de la présente guerre, des ports et havres de la Guadeloupe, tous les vaisseaux armés, et corsaires appartenant aux puissances en guerre avec la Grande Bretagne, et de ne point permettre que dans toutes les guerres futures, dans lesquelles la Grande Bretagne serait engagée, et où la Suède seroit neutre, les corsaires d'aucune des puissances belligérantes puissent entrer dans les ports de la dite colonie.

6. De ne point aliéner cette isle sans l'aveu de Sa Majesté Britannique, et

7. D'accorder toute protection et sureté aux sujets Britanniques et à leurs propriétés, soit qu'ils préfèrent de quitter la colonie, soit qu'ils y restent.

Cet

This separate article shall have the same force and effect, as if it were inserted, word for word, in the Treaty signed this day, and shall be ratified at the same time.

In faith of which, we the undersigned, in virtue of our full powers, have signed the present separate article, and have affixed thereto the seals of our arms.

Done at Stockholm, the third March, in the year of our Lord one thousand eight hundred and thirteen.

ALEXANDER HOPE.

(L. S.)

LE COMTE D'ENGESTROM.

(L. S.)

EDWARD THORNTON.

(L. S.)

G. BARON DE WETTERSTEDT.

(L. S.)

Cet article séparé aura la même force et valeur, que s'il était inséré mot à mot dans le Traité signé aujourd'hui, et sera ratifié en même tems. En foi de quoi nous sous-signés, en vertu de nos Pleinpouvoirs, avons signé le présent article séparé, et y avons apposé le cachet de nos armes.

Fait à Stockholm le trois Mars, l'an de Grace, mil huit cent Treize.

ALEXANDER HOPE.

(L. S.)

LE BARON D'ENGESTRÖM.

(L. S.)

EDWARD THORNTON.

(L. S.)

G. BARON DE WETTERSTEDT.

(L. S.)

LIST

Of Papers presented to both Houses of Parliament, by command
of His Royal Highness the Prince Regent, June 16th, 1813.

No.

1—Substance of the Engagements between the Courts of St. Petersburg and Stockholm, signed at St. Petersburg the 24th of March 1812, so far as the same are referred to in the Treaty signed at Stockholm on the 3d of March 1813, between His Majesty and the King of Sweden.

2—An Account of Bills of Exchange on the Lords Commissioners of His Majesty's Treasury, and of Monies issued under their Lordships' Warrants for the Service of the Swedish Government, in virtue of the Treaty of the 3d of March 1813.

3.—Memorandum of Swedish Troops arrived at Stralsund.



Substance of the Engagements between the Courts of St. Petersburg and Stockholm, signed at St. Petersburg the 24th of March 1812, so far as the same are referred to in the Treaty between His Majesty and the King of Sweden, signed at Stockholm on the 3d of March 1813.

THE object of the Emperor of Russia and the King of Sweden in forming an alliance, is stated to be for the purpose of securing reciprocally their states and possessions against the common enemy.

The French Government having by the occupation of Swedish Pomerania committed an act of hostility against the Swedish Government, and by the movement of its armies having menaced the tranquillity of the Empire of Russia, the Contracting Parties engage to make a diversion against France and her allies, with a combined force of twenty-five or thirty thousand Swedes, and of fifteen or twenty thousand Russians, upon such point of the coast of Germany as may be judged most convenient for that purpose.

As the King of Sweden cannot make this diversion in favour of the common cause consistently with the security of his dominions, so long as he can regard the Kingdom of Norway as an enemy, His Majesty the Emperor of Russia engages, either by negotiation or by military co-operation, to unite the Kingdom of Norway to Sweden. He engages moreover to guarantee the peaceable possession of it to His Swedish Majesty.

The two Contracting Parties engage to consider the acquisition of Norway by Sweden as a preliminary military operation to the diversion on the coast of Germany, and the Emperor of Russia promises to place for this object, at the disposal and under the immediate orders of the Prince Royal of Sweden, the corps of Russian troops above stipulated.

The two Contracting Parties being unwilling, if it can be avoided, to make an enemy of the King of Denmark, will propose to that Sovereign to accede to this alliance, and will offer to His Danish Majesty to procure for him a complete indemnity for Norway, by a territory more contiguous to his German dominions, provided His Danish Majesty will cede for ever his rights on the Kingdom of Norway to the King of Sweden.

In case His Danish Majesty shall refuse this offer, and shall have decided to remain in alliance with France, the two Contracting Parties engage to consider Denmark as their enemy.

As it has been expressly stipulated that the engagement of His Swedish Majesty to operate with his troops in Germany in favour of the common cause, shall not take effect until after Norway shall have been acquired by Sweden, either by the cession of the King of Denmark, or in consequence of military operations, His Majesty the King of Sweden engages to transport his army into Germany, according to a plan of campaign to be agreed upon, as soon as the above object shall have been attained.

His Britannic Majesty to be invited by both Powers to accede to, and to guarantee the stipulations contained in the said Treaty.

By a subsequent Convention, signed at Abo, the 30th of August 1812, the Russian auxiliary force was to be carried to thirty-five thousand men.

AN ACCOUNT of Bills of Exchange drawn on the Lords Commissioners of His Majesty's Treasury, and of Monies issued under their Lordships' Warrants, for the Service of the Swedish Government, in virtue of the Treaty of the 3d March 1813.

Bills drawn by Edward Thornton, Esq. accepted by order of the Lords Commissioners of His Majesty's Treasury, and which were paid prior to and on the 16th June 1813:

Date of Bills.	Date of Payment.	Sums.	
1813.	1813.		
March 3	May 5	£ 18,324 19 1	
8	27	10,000 0 0	
13	17	15,067 8 7	
15	31	3,050 0 0	
19	June 11	11,424 10 10	£
22	16	12,130 17 8	
			69,997 16 2

Bills drawn by Edward Thornton, Esq. accepted by order of the Lords Commissioners of His Majesty's Treasury, and which become due subsequently to the 16th June 1813.

Date of Bills.	Date when Due.	Sums.	
1813.	1813.		
March 25	June 17	£ 9,354 9 7	
April 3	9	5,427 10 1	
10	24	11,300 12 2	
16	28	28,002 12 2	
24	July 5	31,617 17 9	
May 1	13	36,291 7 10½	
14	4	23,000 0 0	
			144,994 9 7½

Monies issued to Baron de Rehausen, by the Paymaster-General, under Warrants of the Lords Commissioners of His Majesty's Treasury.

Warrant dated 1st June 1813.	£75,000 0 0	
.....	75,000 0 0	
		150,000 0 0
		£364,992 5 9½



No 3.

MEMORANDUM
OF
SWEDISH TROOPS ARRIVED AT STRALSUND.

Foreign Office, June 16, 1813.

IT appears by the latest advices received from His Majesty's servants on the Continent, that successive divisions of Swedish troops had arrived at Stralsund from their different points of embarkation in Sweden: the total strength of which (exclusive of a corps of Pomeranians) is stated to amount to about 28,000 men.

TREATY WITH SICILY.

SUPPLEMENTARY TREATY

BETWEEN

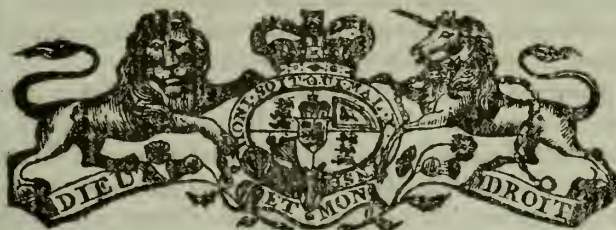
HIS MAJESTY

AND

THE KING OF THE TWO SICILIES;

Signed at Palermo the 12th of September 1812.

Published by Authority.



LONDON:

PRINTED BY R. G. CLARKE, CANNON ROW.

1812.

(TRANSLATION.)

TREATY

Between His Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the King of the Two Sicilies.

HIS Majesty the King of the United Kingdom of Great Britain and Ireland, and His Majesty the King of the Two Sicilies, being persuaded, that, in the present state of affairs on the Continent, a more energetic system of military policy in the Mediterranean, against the attempts and exertions of the common enemy, might not only be productive of the most advantageous consequences in the present war against France, but would, above all, more effectually contribute to the defence of the Kingdom of Sicily, which is precisely the object of the treaties of alliance and subsidy which have been concluded between their said Britannic and Sicilian Majesties, under date of the 20th of March 1808, and of the 13th of May 1809, and which are at this time in their full force, have judged it necessary to make some modifications of those treaties, and to stipulate another, as a supplement to the two preceding ones, in order that it may never be supposed that they have been in any respect departed from.

For this purpose, their Majesties have named their respective Plenipotentiaries: viz. His Majesty the King of the United Kingdom of Great Britain and Ireland, the Most Illustrious and Most Excellent Lord William Cavendish Bentinck, Lieutenant-General of His Armies, Commander in Chief of the English Forces in Sicily, and His Envoy Extraordinary and Minister Plenipotentiary to His Majesty the King of the Two Sicilies; and His Majesty the King of the Two Sicilies, the Most Illustrious and Most Excellent Signor Don Joseph Ventimiglia, Prince of Belmonte, His Gentleman of the Bedchamber, in Office, Knight of the Royal Order of St. Januarius, and His Counsellor of State and Secretary of State, having the Department for Foreign Affairs; who, after having communicated their respective full powers, have agreed upon the following Articles:

ARTICLE

TRAITE

Entre Sa Majesté le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande, et Sa Majesté le Roi des Deux Siciles.

SA Majesté le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande, et Sa Majesté le Roi des Deux Siciles, ayant considérés, que dans l'état actuel des affaires sur le Continent, un système plus énergique de politique Militaire dans la Méditerranée, contre les entreprises, et les efforts de l'ennemi commun, non seulement pourrait produire des résultats très avantageux dans la présente guerre contre la France, mais surtout assurerait plus efficacement la défense du Royaume de la Sicile, laquelle forme précisément l'objet des deux traités d'alliance et de subsides, qui ont été stipulés entre leurs dites Majestés Britannique et Sicilienne, en date du 30 Mars 1808, et du 13 Mai 1809, et qui sont actuellement dans leur pleine vigueur; ont jugés à propos de faire quelques modifications aux traités susdits, et d'en stipuler un autre pour servir de supplément aux deux précédents, afin qu'on ne puisse jamais supposer qu'on y ait en aucune partie dérogé. A cet effet leurs Majestés ont nommés leurs Plenipotentiaires respectifs, savoir, Sa Majesté le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande, le très Illustre et très Excellent Seigneur Lord Guillaume Cavendish Bentinck, Lieutenant Général de ses Armées, Commandant-en-Chef des forces Anglaises en Sicile, et son Envoyé Extraordinaire et Ministre Plenipotentiaire près de Sa Majesté le Roi des Deux Siciles; et Sa Majesté le Roi des Deux Siciles, le très Illustre et très Excellent Seigneur Don Joseph de Ventimiglia, Prince de Belmonté, son Gentilhomme de la Chambre, en Fonction, Chevalier de l'Ordre Royal de Saint Janvier, et son Conseiller d'Etat et Secrétaire d'Etat, ayant le Département des Affaires Etrangères; les-quels apres s'être communiqués leurs plein pouvoirs respectifs sont convenus des Articles suivans.

ARTICLE

ARTICLE I.

The two Treaties of Alliance and of Subsidy, signed at Palermo, the 30th of March 1808, and the 13th May 1809, are hereby renewed and confirmed; they are to be considered as having the same force and value, as if they were inserted word for word in this Treaty, with the exception of the III. IV. and V. articles, so far as the same do not agree with the present Treaty.

ARTICLE II.

His Majesty the King of the Two Sicilies, consents to place a division of his army at the disposal of His Britannic Majesty, and under the orders of a British General, to be employed against the common enemy, within, and upon, the coasts of the Mediterranean.

ARTICLE III.

This division to be of seven thousand three hundred and fourteen men, including the officers of the respective corps,

It is to be formed in this manner.

1. A Division of Artillery, with its train of twenty-one officers, three hundred and eighteen men, and one hundred and fifty-three horses.

2. Another of Horse Artillery, of five officers, one hundred and seven men, and one hundred and eleven horses.

3. A Battalion of Grenadiers, consisting of twenty-three officers, and seven hundred and eighty-seven men.

4. Three Regiments of Infantry, that is to say—one of Sicilians, and two of Neapolitans, each of forty-five officers, and one thousand three hundred and forty-one men

5. A Fourth Regiment of Infantry, which is to be raised and formed entirely of Sicilians, of forty-five officers, and one thousand three hundred and forty-one men.

6. A Regiment of Cavalry, of twenty-six officers, four hundred and twenty three men, and four hundred and seventeen horses.

ARTICLE

ARTICLE I.

Les deux Traités d'Alliance et de Subsidies, signés à Palerme le 30 Mars 1808, et le 13 Mai 1809, sont ici renouvelés et confirmés; ils doivent être censés d'avoir la même force et valeur, comme s'ils étaient insérés mot à mot dans ce traité; à l'exception des articles III. IV. et V. en tout ce qui ne s'accorde pas avec le présent traité.

ARTICLE II.

Sa Majesté le Roi des Deux Siciles, consent à mettre à la disposition de Sa Majesté Britannique, et sous les ordres d'un Général Britannique, une division de son armée, pour être employée contre l'ennemi commun, entre, et sur les côtes de la Méditerranée.

ARTICLE III.

Cette division sera forte, de sept mille trois cents et quatorze hommes; y compris les officiers des corps respectifs. Elle sera composée de la manière suivante.

1. Une division d'artillerie, avec son train de vingt et un officiers, trois cents dix huit hommes, et cent cinquante trois chevaux.

2. Un autre d'artillerie à cheval, de cinq officiers, cent et sept hommes, et cent et onze chevaux.

3. Un bataillon de grenadiers, de vingt trois officiers, et sept cents quatre vingt, et sept hommes.

4. Trois régiments d'infanterie, c'est à dire, un de Siciliens et deux de Napolitains, chacun de quarante cinq officiers, et mille trois cents quarante et un hommes.

5. Un quatrième régiment d'infanterie, qui est à former et sera composé de Siciliens seulement, de quarante cinq officiers et mille trois cents quarante et un hommes.

6. Un régiment de cavalerie, de vingt six officiers, quatre cents et vingt trois hommes, et quatre cents et dix sept chevaux.

ARTICLE

ARTICLE IV.

In order to ensure the maintenance and support of this division, and to prevent the salaries of the officers, the pay of the soldiers, the rations of food and forage, and the funds for the equipment as well as the remounting of the horses, from falling at all into arrear, His Sicilian Majesty agrees, that the amount of the charge for the said objects, which has been fixed at thirty thousand eight hundred and thirty-nine ounces and nine tarins for each month of thirty days, and at three hundred and seventy-four thousand ounces seventy-three tarins and ten grains for the year, shall be deducted from the subsidy of four hundred thousand pounds sterling, per annum, which Great Britain furnishes to the Crown of the Two Sicilies, by virtue of the two said Treaties ; so that every necessary expense for the above-mentioned purpose shall be at the charge of the British Government.

For this purpose, two officers shall be appointed as Commissaries, the one by His Britannic Majesty, the other by His Sicilian Majesty, who shall be charged, by orders given respectively, with the superintendence of the pecuniary affairs of this division.

Their receipts shall be sufficient vouchers for the employment of the sums thereto appropriated.

ARTICLE V.

A sum of two million ounces per month shall be appropriated besides by His Sicilian Majesty, to the repair of the arms and artillery, to the field equipage, to the hospitals, tents, &c. as well as for every extraordinary expense of any nature whatsoever, necessary to the said division ; which sum shall likewise be deducted from the subsidy of Great Britain.

ARTICLE VI.

His Sicilian Majesty will cause this division to be made over, clothed, armed; and provided with horses, conformably to the contents of the third article, excepting only the fourth regiment, which

ARTICLE IV.

Afin que l'entretien et la conservation de cette division, pour tout ce qui regarde la solde des officiers, le prest des soldats, les rations des vivres et de fourages, et les fonds pour l'habillement, aussi bien que pour la rémonte des chevaux, soient garantis de tout arrérage, Sa Majesté Sicilienne consent, à ce que le montant des dits objets, qu'on a fixé à onces trente mille huit cents trente neuf, et neuf tarins, pour un moi de trente jours, et à onces trois cents soixante et quatorze mille et soixante et treize trois tarins et dix grains pour une année, soit prélevé sur les subsides de quatre cents mille livres sterling par an ; que la Grande Bretagne fournit à la couronne des Deux Siciles, en vertu des deux dits traités, de manière que tout dépense nécessaire, pour les objets sus-mentionnés soit à la charge du Gouvernement Britannique.

A cet effet seront nommés deux officiers comme commissaires, l'un par Sa Majesté Britannique, et l'autre par Sa Majesté Sicilienne, lesquels seront chargés sous les ordres respectifs, de la surintendance des affaires pécuniaires de cette division : leur reçus seront suffisans pour repondre de l'emploi des sommes qui lui sont destinées.

ARTICLE V.

Une somme de deux mille onces par mois sera appropriée, en outre par Sa Majesté Sicilienne, pour réparer les armes et l'artillerie, pour l'attirail de campagne, pour les Hopitaux, pour les tentes, &c. : aussi bien que pour toute dépense extraordinaire, d'un genre quelconque nécessaire à la division susdite : laquelle somme sera prélevée également sur les subsides de la Grande Bretagne.

ARTICLE VI.

Sa Majeste Sicilienne fera consigner cette division habillée, armée, et pourvue de chevaux, conformément au contenu de l'article troisième ; excepté seulement le quatrième régiment, qui devra être composé de Siciliens. Comme la somme appropriée à ce régiment devra commencer à être payée par le Roi des Deux Siciles, depuis le premier du mois

is to be composed of Sicilians, as the payment by the King of the two Sicilies of the sum appropriated to this regiment, should commence from the first day of the present month of September, precisely as if it were already in existence, the expences attending the clothing, equipment, recruiting, and every other necessary object, shall be furnished by the British Government.

ARTICLE VII.

His Sicilian Majesty will employ every means in his power to keep this division always complete, and in case that any insurmountable difficulties shall arise, the two Governments shall concur in deciding upon the best means of fulfilling this object.

ARTICLE VIII.

It is agreed by the two high contracting parties, that a part of the corps forming this division, shall, from time to time, be brought back into Sicily, to be replaced by an equal number drawn from the other corps of the army, destined to the defence of Sicily : By this means the whole will participate in the double advantage of being considered on the same footing, and of becoming equally accustomed to war. His Britannic Majesty promises on his part, that when the division or any one of the corps shall return to Sicily, the individuals composing it shall be provided with every article of equipment belonging to them, and the cavalry with the same number of horses as it carried away. All the arms, clothing, horses, &c. which shall have been either destroyed or lost, shall be replaced at the expense of the British Government.

ARTICLE IX.

With respect to the promotion of the officers to those ranks which may become vacant, from whatsoever cause it may be, the British Commander of this Division shall propose them to the Government of the King of the Two Sicilies, and shall receive orders in consequence.

But in the case of vacancies on the field of battle, His Majesty grants to the said British Commander the permission to make such promotion as he may think necessary.

ARTICLE

de Septembre courant, tout comme s'il existait déjà, les dépenses qu'exigera l'habillement, l'armement, le recrutement, et tout autre objet nécessaire, seront fournies par le Gouvernement Britannique.

ARTICLE VII.

Sa Majesté Sicilienne emploiera tous les moyens en son pouvoir pour maintenir cette division toujours au complet; et dans le cas qu'il s'élève des difficultés insurmontables, les deux Gouvernements se mettront d'accord pour aviser aux moyens de remplir cet objet.

ARTICLE VIII.

Il est convenu entre les hautes parties contractantes que de tems en tems l'on fera rentrer en Sicile une partie des corps de cette division, qui sera remplacée par un nombre pareil tiré des autres corps de l'armée destinée à la défense de la Sicile.

Toute l'armée partagera par là le double avantage d'être également considérée et de s'accoutumer à la guerre. Sa Majesté Britannique promet de sa part que lorsque la division ou quelque un de ses corps rentrera en Sicile, ses individus seront pourvus de tous les articles d'équipement qui leur appartiennent et la cavalerie du même nombre de chevaux, qu'elle en aura emporté. Tout dégât ou perte en armes, habillement, chevaux, &c. sera remplacé aux dépens du Gouvernement Britannique.

ARTICLE IX.

Quant à la promotion des officiers aux postes qui vaqueront, quelle qu'en soit la cause, le Commandant Britannique de cette division en fera la proposition au Gouvernement du Roi des Deux Siciles, et recevra les ordres en conséquence.

Mais dans les cas de vacances sur le champ de bataille, Sa Majesté, accorde au dit Commandant Britannique la permission de faire telle promotion qu'il croira convenable.

ARTICLE

ARTICLE X.

The choice of Brigadiers, to serve in this division, shall be entrusted to the Commander-in-Chief of the British forces in Sicily; and His Sicilian Majesty declares, that these Brigadiers shall be always under the orders of the British General commanding the division.

ARTICLE XI.

It is stipulated and agreed, that after deducting the sums specified above by the IVth and Vth Articles, amounting together to three hundred and eighty-eight thousand and seventy-three ounces, three tarins, and ten grains, as well as every other sum stipulated for the service of the Royal Flotilla at Messina, amounting to seven thousand ounces per month, or eighty-four thousand ounces by the year; the remaining surplus of the subsidy, according to the rate of exchange, as it existed at Palermo the preceding month, shall be paid at Palermo monthly, and always a month in advance, according to the tenor of the treaties, to His Sicilian Majesty's Secretary of State for Foreign Affairs, whose receipt shall be considered as sufficient acknowledgment of each payment.

ARTICLE XII.

An account of the expences attending the said division shall be given every three months to the Government of His Sicilian Majesty, by the two officers, acting as Commissaries. The same shall be done with respect to the flotilla of Messina; and in the event of there being any surplus of the subsidy appropriated to these two services, that surplus shall be applied by the Commander-in-Chief of the British forces in Sicily, to the repair or construction of fortifications, or to such other objects as may appear to him the most conducive to the defence of Sicily. A regular account of the appropriation of this surplus shall be given in like manner to His Sicilian Majesty.

ARTICLE

ARTICLE X.

Le choix des brigadiers pour servir dans la division, sera confié aux soins du Commandant en Chef des forces Britanniques en Sicile : et sa Majesté Sicilienne declare, que ces brigadiers seront toujours sous les ordres du Général Britannique qui commandera la division.

ARTICLE XI.

Il est déclaré, et convenu, que deduction faite des sommes ci-dessus spécifiée par les articles IV. et V., montant ensemble à trois cents quatre vingt huit mille et soixante et treize onces trois tarins dix grains, aussi bien que de l'autre somme convenue pour la service de la flotille Royale à Messine, montant à sept mille onces par mois, ou quatre vingt quatre mille onces par an : le surplus restant du subside, selon le change qui resultera des changes qui ont été en cours à Palerme le mois précédent, sera payé à Palerme mois par mois et toujours anticipé d'un mois, suivant la teneur des traités, au Secretaire d'Etat de sa Majesté Sicilienne pour les Affaires Etrangères, dont les reçus seront regardés comme une quittance suffisante pour chaque payement.

ARTICLE XII.

Un compte des depenses de la division susdite sera donné chaque trois mois au Gouvernement de sa Majesté Sicilienne, par les deux Officiers agissant en Commissaires. Il en sera de même à l'égard de la flotille de Messine; et dans le cas qu'il y aura quelque surplus restant du subside approprié à ces deux services, ce surplus sera appliqué par le Commandant en Chef des forces Britanniques en Sicile, à la reparation ou à la construction des fortifications, ou à tels autres objets qui lui paraîtront les plus nécessaires à la defense de la Sicile. L'on donnera de même au Gouvernement de sa Majesté Sicilienne un compte réglé de l'emploi de ce surplus.

ARTICLE

ARTICLE XIII.

His Majesty the King of the United Kingdom of Great Britain and Ireland engages, in return, most solemnly to guarantee to His Majesty the King of the Two Sicilies, and to His Royal Family, the full sovereignty, dominion, and possession, of His Kingdom of Sicily, in any Treaty of Peace whatsoever, which he may conclude with France.

ARTICLE XIV.

In consideration of the above stipulations, His Britannic Majesty also promises to renounce all claim to the sums which may have been employed, above the amount of the subsidy, in the defence of Sicily

ARTICLE XV.

The present Treaty, additional to the treaties of alliance and subsidy of the 30th March 1808, and the 13th May 1809, shall be ratified by the two high contracting parties, and the ratifications shall be exchanged in due form, at Palermo, in the space of four months, or sooner if possible. In faith whereof we the undersigned, by virtue of the authority of our respective Sovereigns, have signed the present Treaty, and have affixed thereto the seals of our arms

(Signed) JOSEPH de VENTIMIGLIA,
(L. S.)

(Signed) W. C. BENTINCK,
(L. S.)

ARTICLE XIII.

Sa Majesté le Roi du Royaume Uni de la Grande Bretagne et de l'Irlande s'engage en retour solennellement, à garantir à sa Majesté le Roi des deux Siciles, et à sa Famille Royale, la pleine Souveraineté, domaine, et possession, de son Royaume de Sicile, dans un Traité queleconque de Paix qu'elle pourra faire avec la France.

ARTICLE XIV.

En considération des stipulations ci-dessus, sa Majesté Britannique promet aussi bien de renoncier à toute demande des sommes qui auront avoir été employées au de là du montant du subsidé, pour la défense de la Sicile.

ARTICLE XV.

Le present Traité additionnel aux traités d'alliance et de subsides du 30 Mars 1808, et du 13 Mai 1809, sera ratifié par les deux hautes parties contractantes ; et les ratifications en seront echangées en due forme à Palerme, dans l'espace de quatre mois ou plutôt, si faire se peut.

En foi de quoi nous soussignés, en vertu de l'autorisation de nos Souverains respectifs avons signé le present Traité, et y avons apposé le cachet de nos armes. Fait à Palerme, aujourd, hui ce douze Septembre 1812.

(Signé) W. C. BENTINCK.

(L. S.)

(Signé)

JOSEPH DE VENTIMIGLIA:

(L. S.)

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GENERAL ALPHABETICAL

I N D E X

TO THE PRINTED

BILLS, REPORTS, ESTIMATES & ACCOUNTS, AND PAPERS:

SESS. 1812-13.

IN FOURTEEN VOLUMES.

[N. B. The 1st, 2^d, and 3^d Reports on the Public Records of Ireland;—which have a distinct Index, are contained in Vol. XIV. Sess. 1814-15

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